

START

The
Emma
Goldman
Papers

REEL

58

The Emma Goldman Papers

A Microfilm Edition

Reel 58

Government Documents

June 27, 1917 to July 9, 1917

Edited by

Candace Falk

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and

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CHADWYCK-HEALEY INC.

Alexandria, Virginia

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The Emma Goldman Papers Project

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Without the invaluable help, guidance and enthusiasm of Sara Dunlap Jackson, most of the rich government material in our collection would never have been found. Sara Jackson worked closely with the Emma Goldman Papers in the last ten of her forty-four years as government and military documents research archivist of the National Historical Publications and Records Commission. We dedicate the Government Documents series of the Emma Goldman Papers to her, with appreciation and respect.

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Introduction to Reels 57 through 60 (January 1, 1917 to January 31, 1918)

After the United States entered World War I in April 1917, Congress enacted a wide range of legislation restricting the right to criticize the government. The federal enforcement apparatus grew accordingly. The Bureau of Investigation, now the Federal Bureau of Investigation, the intelligence arms of the Army and Navy, and the Post Office censorship offices expanded from small offices to national networks. In addition, the Department of Justice deputized a small army of self-appointed loyalty enforcers called the American Protective League. Goldman's leading role opposing the war and organizing the No Conscription League in the spring of 1917 put her on a collision course with the federal government.

Goldman and the No Conscription League organized a series of mass protest meetings: the first on May 18, the day Congress passed the Draft Act; the second on the eve of Draft Registration Day, June 4, and another on June 14. Unable to tolerate any more dissent, the government on June 15 arrested Goldman and Berkman in the offices of *Mother Earth* and *The Blast* and impounded letters, mailing lists, financial records, and masses of other material.

Charged with conspiracy to violate the Draft Act, Goldman and Berkman conducted their own defense. At the trial, held in the United States District Court for the Southern District of New York from June 27 to July 9, they called many prominent radicals to testify, including John Reed and Lincoln Steffens. They turned the trial into a platform to lecture on anti-militarism and free speech. The jury found them guilty and Judge Julius M. Mayer sentenced them to the maximum penalty of two years in prison and a fine of ten thousand dollars each.

Later wartime prosecutions of dissenters, including those of Eugene Debs, Kate Richards O'Hare, Mollie Steimer, Jacob Abrams, and the entire I.W.W. leadership, were brought under the repressive Espionage Act of June 15, 1917, and the harsh Sedition Act of May 7, 1918, rather than the more lenient Draft Act. The Sedition Act made it a crime to "willfully utter, print, write, or publish any disloyal, profane, scurrilous, or abusive language" about the United States' form of government, Constitution, military forces, or flag. Violators could and often did receive sentences of up to twenty years in prison.

After the trial, the government took Goldman and Berkman directly to prison, where they remained for two weeks. During this time their attorney, Harry Weinberger, filed for an appeal with the Supreme Court. The court agreed to hear the appeal and to let them out on bail pending their final decision. Berkman, who faced an indictment in San Francisco for complicity in the Preparedness Day bombing for which Tom Mooney and Warren Billings had already been convicted, decided not to post bail. He was transferred to the Tombs jail in New York City, where he thought he would be safer from extradition and possible kidnapping.

Weinberger based his appeal on the unconstitutionality of the draft. He argued that the Draft Act violated the Thirteenth Amendment's prohibition against involuntary servitude and the First Amendment's free speech protections. He also contended that the prosecution did not prove any conspiracy. On December 13 and 14, the Supreme Court heard oral arguments in ten cases that raised the question of the constitutionality of the draft. On January 7, in an opinion in six of the combined cases, titled the Selective Draft Law Cases, they declared the Draft Act constitutional. One week later they denied Goldman and Berkman's appeal. Weinberger immediately requested a rehearing, which the court denied on January 28. Goldman and Berkman began serving their prison terms on February 2, 1918.

While Weinberger pursued the Supreme Court appeal, Goldman concentrated on preventing Berkman's extradition to San Francisco and supporting the anti-war effort. The United States Marshal in New York, Thomas McCarthy, prevented Goldman from delivering speeches on several occasions. Weinberger's intensive lobbying forced Attorney General Gregory to direct McCarthy not to interfere with her speeches in advance.

In January, after Governor Whitman of New York had refused to extradite Berkman without more evidence and Weinberger had assured Goldman that she would not have to begin serving her prison term right away, she went on a speaking tour to Detroit and Chicago. She spoke against the war, raised money for her appeal, and lectured on the promise of the Bolshevik Revolution.

The Government Documents for this period fall into roughly three categories: 1. legal documents related to the trial and appeal; 2. surveillance and investigative reports; and 3. postal censorship records.

1. Legal Documents.

The trial records include the grand jury indictment, on June 21, and two transcripts of the trial. The first, an 824 page stenographer's transcript, is a verbatim record of the entire trial except for jury selection and closing arguments. This document, plus the closing arguments of prosecuting attorney Harold Content and Judge Mayer's jury instructions, make up all of Reel 58. In order to avoid splitting this document between two reels, it is filmed out of chronological sequence, between August and September 1917.

The second transcript, 277 pages long, is the printed record of the trial, prepared by Weinberger and Content for the Supreme Court appeal. Unlike the longer transcript, this record includes transcriptions of the exhibits submitted at trial and Weinberger's petition for Supreme Court review. It is dated September 25, 1917, the date it was submitted to the Supreme Court. Of the two documents, the first is more complete, because it includes

passages — usually arguments over the admissibility of evidence — deleted from the printed version. Neither transcript includes the closing arguments of Goldman and Berkman. Their speeches are printed in the pamphlet, “Trial and Speeches of Alexander Berkman and Emma Goldman”, dated July 1917.

The records of the Supreme Court appeal include the July 17 request for an appeal, Weinberger’s brief on November 30, the government’s reply brief which responds to all the draft cases on December 10, Weinberger’s request to file a supplemental brief, and the brief itself, dated January 3, the court’s opinion on January 14, and Weinberger’s motion for a rehearing. Throughout the appeal, Weinberger maintained a correspondence with Supreme Court Clerk James Maher and Solicitor General John Davis.

2. Surveillance Reports.

Goldman and Berkman were two of the first targets of the rapidly-expanding federal surveillance network. Agent reports from the Bureau of Investigation begin in May 1917. They describe the No Conscription League’s mass meetings in May and June, Goldman’s arrest and the raid on her office, the trial, and Goldman’s speeches while she was out on bail. The accounts of her farewell tour to Detroit and Chicago in January are particularly detailed. They include elaborate descriptions of her speeches, audiences, her hosts, travel plans, telephone calls, mail, and efforts to follow her back to New York.

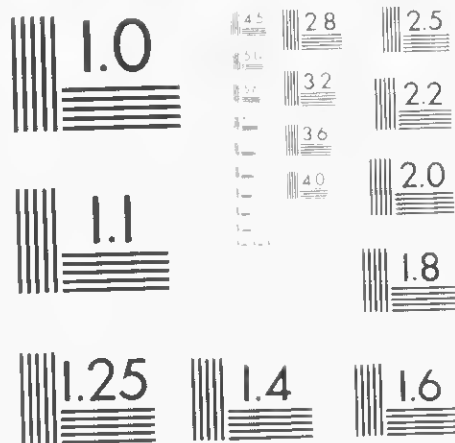
Reports from undercover agents working for Military and Naval Intelligence begin in the fall of 1917. Agent C, a Naval Intelligence contact who had worked undercover with the I.W.W. and anarchists for years, submitted particularly inflammatory accounts of the activities of Goldman, Roger Baldwin, and the I.W.W. This agent authored reports that Goldman was masterminding a plot using “Committees of Five” in various cities to assassinate the President and other public officials simultaneously. This

scheme, named the Guillotine Plot, occupied all investigative branches of the government from the end of November through January 1918.

3. Postal Censorship Records.

The Espionage Act, passed on June 15, 1917, declared nonmailable all written material advocating treason, insurrection, or forcible resistance to the law. Under this law the Post Office held up and ultimately destroyed all copies it could find of *Mother Earth* from May 1917 — one month before the law was enacted — until Goldman stopped publication in August 1917. The Post Office also censored *Mother Earth's* replacement, the *Mother Earth Bulletin*, throughout its publication span from October 1917 to April 1918.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

VS.

EMMA GOLDMAN and ALEXANDER
BERKMAN.

BEFORE

HON. JULIUS M. MAYER, J.,

and a Jury.

NEW YORK.

STENOGRAPHER'S MINUTES

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Defendants' Bill of Exceptions

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UNITED STATES DISTRICT COURT,
SOUTHERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA,

vs.

EMMA GOLDMAN and ALEXANDER
BERKMAN.

Before:

HON. JULIUS M. MAYER, J.,

and a Jury.

This cause came on for trial at

~~New York~~, June 27th, 1917.

APPEARANCES:

FRANCIS G. CAFFEY, ESQ., United States Attorney,

for the Government;

Harold A. Content, Esq., Assistant U. S. Attorney,

of Counsel.

EMMA GOLDMAN, one of the defendants, in person.

ALEXANDER BERKMAN, one of the defendants, in person.

thereupon the following proceedings were had:

MR. CONTENT: Where is Mr. Weinberger?

MR. BERKMAN: We will defend ourselves.

I move an adjournment on the following grounds: We have
have absolutely no chance of familiarizing ourselves with
the case, or with the charges against us brought by the
prosecution. We have been unable to see witnesses or sub-
poena witnesses, many of them being out of town. We have
been out on bail only a very short time, owing to the

Hush

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fact that it was impossible to secure \$25,000 bail for the defendant Emma Goldman; owing further to the fact that the prosecution placed many obstacles in the way of the defendant Alexander Berkman. The defendant Emma Goldman has been out only since Thursday evening late. Every moment of the time until Monday night was devoted to securing bail for the defendant Alexander Berkman. As a result of this we have been utterly unable to even talk or give a thorough reading to the indictment, to familiarize ourselves with the indictment, and familiarize ourselves with the different phases of the law employed in the indictment. For these reasons we ask for a reasonable adjournment to prepare ourselves for our defense.

MR. CONTENT: Your Honor will understand that whereas it is always the defendant's right to defend himself or herself, on the other hand up until this moment, Mr. Weinberger was the attorney of record. I asked his clerk a few minutes ago where he was and he said he would be here in a few moments. This is a form of indictment Mr. Weinberger ought to know and knows. He was furnished with a copy of the indictment the day it was filed. He has had ample opportunity to look it over, and it is not any very different form from other indictments in which he has been counsel.

MISS GOLDMAN: May I say something, your Honor?

THE COURT: Yes.

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MISS GOLDMAN: I wish to state it is not true as stated by Mr. Content that Mr. Weinberger had the charge of our case. He is not in charge of our case not because he would not have been willing or glad to appear, but because we decided after due consideration to conduct our own case. Mr. Weinberger, it is true, the clerk said, will appear in court. He may indeed appear in court, but not as the counsel for our defense. We wish to conduct our own case, and we feel we ought to have a reasonable adjournment to prepare our case, both in view of the fact that we do not know the intricacies of the law, and we ought to have time to give it due consideration from every angle. So we are asking your Honor to extend us a reasonable adjournment.

MR. BERKMAN: I should like to add to the reasons given by Miss Goldman that I have been out only since Monday, five o'clock in the afternoon. Today is Wednesday morning. It was absolutely a physical impossibility for me to do anything to become familiar with the indictment, look up witnesses, to give the matter much thought, especially in view of the fact that I was twelve days in jail, and that I was in great pain, had an accident to my foot, had no treatment in the cell, and that I am physically and mentally just now not in a condition to go ahead with the trial because of my

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accident.

THE COURT: When this case first came up, I stated that the case would proceed today. At that time Mr. Weinberger represented both of the defendants, and apparently has represented them, so far as any information came to the prosecuting attorney, until this very moment. The statute of May 18, 1917, provides that violations thereof shall have precedence on the criminal docket. That is the mandate of Congress, approved by the President of the United States.

Now, while, technically speaking, this indictment of the two defendants here now, is not for the violation of that act, the indictment is for a conspiracy to violate that act, and is well within the spirit and the purpose which Congress laid upon the courts of trying violations of that act, or anything which violated the authority directly, without delay, for reasons that Congress regarded as appropriate reasons of public policy.

4 [Now you have concluded to conduct your own case, which is your absolute right; and every effort will be made to give you the fullest opportunity to conduct your own case in accordance with law; but I deem it my duty to deny the motion, and the case will proceed.

MR. BERKMAN: May I say something with regard to

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that act? I am not familiar with it; but I take it for granted that that act does not intend to deprive us of the opportunity to prepare our case.

THE COURT: I have ruled, Mr. Berkman. The stenographer will note an exception on behalf of each, which will preserve your rights.

MISS GOLDMAN: May I also say, your Honor, that I take it that it is not the intention of the Court to prosecute us -- that as long as we do not, we are not familiar with the details of the indictment, as long as we are not, have not been in a position to even familiarize ourselves with the different phases of law employed in the indictment, have we not the right to ask you to reconsider your denial of the motion, and grant us a reasonable adjournment for the sole purpose of familiarizing ourselves, of studying the phases, and of making an adequate defense? Surely, your Honor, that is a thing which is even granted and was granted in a country like Russia under the Czar. Surely we ought to have the right in the United States.

MR. CONTENT: Will you permit me to make this suggestion on the record: The defendant Miss Goldman states that Mr. Weinberger was not unwilling to represent them, and that until today he did represent them, therefore they have not been deprived of the right of counsel in any regard.

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THE COURT: You have had the fullest opportunity.

The proceedings began by the arrest and subsequent arraignment before the Commissioner. You were then arraigned before this Court. You were informed of the nature of the charge against you. You were represented then by Counsel. You have had the fullest opportunity, and I can do no more than reiterate my conclusion to deny the motion; and the stenographer is instructed to note that you except to my decision, so that your rights may be preserved.

MISS GOLDMAN: We take exception.

MR. BERKMAN: We take an exception. May I call your attention also to the fact that Mr. Weinberger never represented me as an attorney in the sense of defending me, because he only represented me as an attorney to help get my bail, and having not been in the jail sufficiently there would be no opportunity to prepare my case.

THE COURT: I have ruled, Mr. Berkman.

MR. BERKMAN: May I put in as evidence, or ask your Honor's attention to a letter from a physician who has been treating me with regard to my injury?

THE COURT: Yes.

The stenographer will note that this letter from Dr. Max Strunsky, 226 West 70th street, has been presented by the defendant Berkman, and will spread the same on the record:

(The letter reads as follows):

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1:7

"I hereby certify that Alexander Berkman has sustained a severe injury to his leg and it is necessary for him to have proper medical treatment at this time, and he is suffering great pain at the present time because of his said injury, Dr. Max Strunsky

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MISS GOLDMAN: If I may say, since we were denied a reasonable adjournment and since we are not prepared for trial, we refuse to participate in the proceedings.

THE COURT: Very good. You may be seated, each of you.

MR. CONTENT: Shall ^{the clerk} A call the jury?

THE COURT: In order to protect the rights of the defendants, let the Clerk note a motion upon their behalf to dismiss the indictments against them. This motion, for their protection, will be understood to be addressed to such constitutional questions, if any, as they may desire to refer to at any time; and also addressed to the indictment from the standpoint of whether or not it sets forth a crime.

The Court denies the motion to dismiss, and the

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record will show an exception reserved to the defendants, to preserve their rights. The Clerk will now call the jury.

(The Clerk then called twelve talesmen and filled the jury box).

MR. CONTENT: Do you want to examine the jurors?

MISS GOLDMAN: I don't wish to participate in this farce.

MR. CONTENT: Then you don't want to examine any jurors?

MISS GOLDMAN: No, I don't.

~~THE COURT: Just a moment. I promised this juror, having a personal engagement, I would excuse him (indicating No. 9).~~

~~Mr. District Attorney and defendants, this juror has some personal engagements which impel me to excuse him, and if there is no objection, I will excuse him (indicating No. 6).~~

~~(Seats Nos. 6 and 9 in the jury box were then refilled)~~

MR. CONTENT: Mr. Berkman, do you desire to examine any of the jurors in this proceeding?

MR. BERKMAN: I should like to find out first how we are going to be tried, since we are not prepared. I have stated that I got out of jail Monday, five o'clock at night. I only had one day and it was absolutely humanly impossible to get ready. I have not read the indictment yet

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and I have been in great pain, as the statement of the doctor will testify.

MR. CONTENT: Your Honor has passed on that.

THE COURT: I have answered all that. I have ruled that you have had plenty of time.

MR. BERKMAN: But I have not had.

THE COURT: And I have so ruled and you have an exception, and you say you will conduct your case, each of you.

MR. BERKMAN: When I get a chance to prepare.

THE COURT: Very well. Now you are at liberty to examine the jury, each of the defendants. That ^{is} the first procedure. You may ask the jury any appropriate questions.

MR. BERKMAN: But you have deprived me of the opportunity to prepare myself.

THE COURT: Now, Mr. Berkman, let me say to you, I will and I desire to protect your rights, but I will not allow any speeches in the courtroom. I will do everything I can, not observing too closely legal technique, to let you present any matters you desire to present, that have to do with the law or the facts in this case; and I now state to both of the defendants that you can examine the jury. Now you may examine the jury if you desire to do so.

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MISS GOLDMAN: May I not ask, or may we not ask to be instructed what the procedure of the prosecution --

MR. CONTENT: May I assist Miss Goldman?

THE COURT: Yes.

MISS GOLDMAN: Just a moment -- may we not be instructed, that in case we refuse to participate in the trial, which is really a farce and not a trial, may we not be instructed as to our rights, at least as to the procedure of the prosecution, as far as we are concerned?

MR. CONTENT: If you will give me a minute, I think I can explain to the defendants. I am the prosecuting officer but there is no reason why the legal procedure should not be explained to them, and what it should be in this case.

(Consultation between Mr. Content and Miss Goldman).

MISS GOLDMAN: I understand that. I am just as pleased that you should.

THE COURT: I will state for the benefit of the defendants --

MR. CONTENT: If your Honor will give me just a minute.

THE COURT: Very well.

(Further consultation between Mr. Content and defendants).

MISS GOLDMAN: Your Honor, since we realize that the trial will only be a greater farce if we allow ourselves to

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be tried --

MR. CONTENT: I take an exception to Miss Goldman's remarks --

MISS GOLDMAN (continuing): To be tried without an examination, we will examine the jurors under protest. We want it to go down that we protest against any procedure which makes it impossible for the defendants to examine their own case, or familiarize themselves with certain technicalities, that they, as lay people, certainly cannot do in forty-eight hours or even three or four days; so, under protest, we will examine the jurors.

THE COURT: Very good.

(Instructions by Mr. Content to Mr. Berkman).

~~MR. BERKMAN: Before I proceed, I want it clearly understood --~~

~~THE COURT: Excuse me. Now you may proceed.~~

MR. BERKMAN: Before I proceed, I want it clearly understood that I do so under protest, not having had an opportunity to prepare myself, and being furthermore in physical pain, so that you are putting me at a disadvantage in forcing me to trial against my will without having given me time to prepare.

MR. CONTENT: Will your Honor have the statement on the record that as prosecuting attorney, I have advised both defendants of the number of peremptory challenges

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allowed to them and the challenges for cause, and the manner of examination of the jurors.

THE COURT: Proceed, Mr. Berkman, with the examination of the jury.

(The examination of the jury then proceeded by both the defendants and the prosecuting attorney, continuing through June 27th, 28th, and 29th, until late in the afternoon of the 29th, when a jury was finally accepted and sworn.)

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UNITED STATES vs. GOLDMAN and BERKMAN.

New York, July 2nd, 1917, 10:30 A.M.

Trial resumed pursuant to adjournment.

P r e s e n t :

THE COURT, COUNSEL AND JURY, AS BEFORE.

THE COURT: Now, Mr. Content, you may open for the Government.

(Mr. Content opened the case to the jury on behalf of the Government ~~as follows~~):

~~MR. CONTENT: May it please the Court, and Gentlemen of the Jury: If my recollection serves me correctly, at the time that you were being examined as talesmen, relative to your qualifications as prospective jurors, practically every one of you gentlemen of the jury assented to the statement that you had at some time or other served on a jury, so that you at least know the purpose of an opening statement in a case of this sort is not to take the place in any way --~~

MR. BERKMAN: The defense wants to make a motion for dismissal on several grounds.

THE COURT: I made the motion for you at the beginning of the case.

MR. BERKMAN: I know, but --

THE COURT: Before Mr. Content opens you may make your

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motion if you want to.

MR. BERKMAN: We move to dismiss the indictment for the following reasons:

1. It does not charge a crime.
2. The conscription law is unconstitutional because it involves involuntary servitude in the army, in the navy and in industrial and agricultural service.
3. The conscription law violates the moral, ethical and religious beliefs of the people of the United States.
4. The conscription law violates the conscience of the people, who are opposed to war, for the reason that human life is sacred.
5. Because the conscription law is highly immoral and prejudicial to the best interests of the country, because it is not to the best interests of the country to force people to act contrary to their judgment and their conscience.
6. Because the United States has not been invaded, nor is it in any danger of invasion, nor is it in any condition of rebellion, and therefore the law is not of a defensive but of an offensive character.
7. Because it is not just to force an American citizen to die on foreign soil against his will and deprive him of the opportunity to die in his own native country.

For all these reasons we ask that the case and the

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indictment be dismissed.

THE COURT: Motion denied. You may reserve an exception.

MR. BERKMAN: Exception taken.

THE COURT: Very good. Now, Mr. Content.

~~MR. CONTENT: Now you gentlemen at least know the purpose of an opening statement. It is not in any way to furnish evidence to you. The evidence will come from the mouths of witnesses, and the documents that will be offered in evidence for your inspection. But it is only proper in order that you may be assisted in knowing what the witnesses are taking about, that you should know the nature of the charge, and in a brief and concise way what the Government expects to submit for your consideration, that you may later decide the issue of facts submitted to you by the Court, at the time he charges you upon the law.~~

~~Now, the general conspiracy section of the United States laws, Section 37 of the Criminal Code, in plain English, is this: When two or more persons conspire to commit any offense against the United States and one or more of such persons does any act toward the accomplishment of the conspiracy -- what we call an overt or outward act -- then the crime is complete, and that is conspiracy. Conspiracy simply means two or more persons acting in an~~

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unlawful plan, that is to say, conspiracy is two or more persons acting in concert -- and there must always be at least two -- acting in an unlawful plan, either to accomplish something lawful by unlawful means or to accomplish something unlawful by lawful or unlawful means. If any one of the persons does any act looking toward the accomplishment of the conspiracy, whether he finally succeeds or not, the crime is complete by the commission of the so-called "overt act".

The selective draft law was passed on May 18, 1917, and on the same day the President duly affixed his signature to a proclamation fixing the 5th day of June, between the hours of 7 a.m. and 9 p.m., as the date on which people should register, as provided by Section 5 of that law. Now this is Section 5 of that law: That all male persons between the ages of 21 and 30, both inclusive, are subject to registration except officials and members of the regular army, the navy, the national guard, while in the active service of the United States. In other words, all male persons whether they are citizens of declarants or aliens, between those ages, are required by that act to register; and some of them may not be subject to draft. For example, a man born in Germany, who has taken out his first papers, but has not yet completed his citizenship, under the law, as it stands now, could not be drafted; but at any rate

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he must register, because he is a male person between the ages of 21 and 30, both inclusive, and is not a member of the exempt classes, which include the regular army, and navy, and the national guard while in active service.

And so, in addition to that, Section 332 of the United States Criminal Code says that anyone who directly commits an act, or who aids, abets, counsels, commands, induces or procures its commission, by anyone else, is a principal. So that you will see at a glance that if you go out and kill a man, you are a principal, you have committed the act directly.

On the other hand, if you did that act pursuant to my persuasion or inducement or assistance, of any kind, I am an aider or abettor, which was formerly known at the common law as an accessory before the fact. And by this statute he, too, is made a principal. So that the man who procures someone else to kill a man is just as guilty in the eyes of our law as the man who actually fires the shot. That is all Section 332 means.

So that the indictment in this case charges that these two defendants, Emma Goldman and Alexander Berkman, and a lot of other people whose names are to the Grand Jurors unknown, entered into an unlawful scheme or conspiracy that a lot of people of conscriptable age other than those exempted by reason of service in the army should

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willfully disobey the sections of the act requiring registration, and the conspiracy further required that these defendants and the people whose names are unknown, should aid and abet and assist and counsel and advise all those persons practically to fail to register, although the law which made it their bounded and beholden duty to register, as provided by our President's proclamation, which fixed June 5th as the date of registration, and bound all male persons in the United States, other than members of the army, etc., to register in the precinct wherein they shall have their permanent home.

Whether the conspiracy was accomplished or not makes no difference; but the Government will prove to your ample satisfaction that these persons were component parts of an unlawful conspiracy of two or more persons to induce people of conscriptable age liable to register, to refuse to obey the law passed by Congress, signed by the President, and in accordance with which law the President of the United States duly issued his proclamation.

And to accomplish the object of that conspiracy the indictment charges that on the 18th day of May, on the very evening of the day when the President affixed his signature to the bill, and upon which it became effective, this defendant, Emma Goldman, at the Harlem River Casino, in the City of New York, delivered an address which was an overt

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or outward act looking to the accomplishment of their unlawful design. Further, to accomplish the object of the conspiracy, the defendant Berkman on the first day of June, in New York City, published or caused to be published a magazine known as THE BLAST, about which some of you were questioned by Mr. Berkman -- the magazine itself will be offered in evidence -- that is, the June issue.

That on or about the 2nd day of June, a companion magazine known as MOTHER EARTH, or a copy thereof, was handed by Miss Goldman to a Herald reporter by the name of Haggerty, who will be called as a witness before you.

That further to accomplish the object of the conspiracy, on the 4th day of June, on the eve of registration day, these two defendants, at the Hunt's Point Palace or Casino, in the Borough of the Bronx, New York City, both delivered addresses, outward acts looking toward the accomplishment of their unlawful design and plan.

That, gentlemen, is a brief statement of the Government's case. So that the Government will prove to your satisfaction that these defendants, at 20 East 125th street, New York City, each of them, ran a publication there, Berkman's known as The Blast, Miss Goldman's as Mother Earth; that both these publications published a June number which we claim was further directly published for the purpose of procuring people wilfully to set themselves above the pro-

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visions of the draft act of May 18th. We will show that these two people were at all times ^{acting in} active union and accord in these things; that they sent out through the mails and otherwise, literature tending to the result of resisting by every means in their power the laws of the United States of America, duly enacted by the representatives of the people.

The Government will prove further that these people at public meetings have done their very best to inflame the populace to such an extent that they would have defied the laws of the United States in every particular; that all these acts together constitute not only an unlawful conspiracy, but a violent attempt made by these two disturbers of law and order to induce people wilfully to refuse to register, although the Congress of the United States have decreed that people must register as provided in that act of May 18th, 1917.

Now there is no occasion for further comment at this time. The witnesses will speak for themselves. The articles and speeches made and published by the defendants will speak for themselves. But bear in mind, gentlemen, at all times that the charge is this: That these two people were in an unlawful agreement that certain people should wilfully refuse to register, that they should assist in every way and counsel and induce

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people of conscriptable age in every way wilfully to fail and refuse to register, in defiance of the laws of the United States; and to further their lawful design they committed many outward and overt acts tending toward the breach of the peace and tending toward the accomplishment of their wicked design.

THE COURT: Before the examination of the witnesses is begun, the program will be this: As to any particular witness produced by the Government, one of the defendants only will offer any objection; that objection the stenographer will note and it will be on behalf of both defendants; and if the Court rules against the defendants, the defendants from now on will be required to take an exception; but an exception taken by one will be for the benefit of both.

So that, for instance, Witness No. 1 would be by the defendant Berkman or by Goldman, whichever they may choose; witness No. 2 the other defendant: But there will not be objections by both defendants at the same time, which would only tend to confusion. The other method that I have suggested and which I have the discretion to require, will safeguard the rights of both defendants, because both the objection and the exception, if such there be, will be for the benefit of both defendants.

Now you may call your first witness.

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M A R Y E L E A N O R F I T Z G E R A L D , a
witness called on behalf of the Government, being first
duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. CONTENT:

Q Where do you reside?

A My office is 20 East 125th street.

Q Where do you reside, I asked you?

A With friends in Connecticut.

Q Where do you reside in New York City?

A Why, I have no residence in New York City.

Q Aren't you living here now?

A No, when I am in the City, my address, business address,
is 20 East 125th street; and when I am staying in the City, I
usually stay in the Brevoort Hotel.

Q Where is your residence in Connecticut?

~~MR. BERKMAN: I object.~~

~~THE COURT: Overruled.~~

~~MR. BERKMAN: Exception.~~

~~THE COURT: Answer. X~~

A Stamford, Connecticut.

Q Is there any particular street address?

A No.

Q Your mailing address is Miss Mary Eleanor Fitzgerald,
Stamford, Connecticut?

A No, sir, my mail, I told you, is usually addressed to

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20 East 125th street.

Q Now, what is 20 East 125th street?

A Why, the office of Mother Earth.

Q Is it the office of any other such publication or magazine?

A On the upper floor is the office of The Blast.

Q Is it the office of any other association, volunteer or incorporated?

MR. BERKMAN: I want to ask some instructions of the Court: There are certain things that the defense is perfectly willing to admit, as for instance, that the No-Conscription League has its office at 20 East 125th street; but I think it will facilitate matters quite a little by either myself or Miss Goldman simply saying, "Yes, we admit it". For instance, it is admitted --

THE COURT: Yes, certainly.

MR. CONTENT: That will help a great deal, but I think Miss Fitzgerald can answer the question.

THE COURT: She can answer the question. There is some organization called the No-Conscription League -- is that correct?

THE WITNESS: Yes, we have the No-Conscription League. The address is 20 East 125th street.

THE COURT: Is that where it has its office?

THE WITNESS: Yes.

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Q How many floors of 20 East 125th street are occupied by Mother Earth or The Blast or the No-Conscription League?

A Why, Mother Earth is on -- if you count the ground floor as the first floor, Mother Earth is on the second floor, the Blast office on the third floor.

Q Where are -- on which floor are the offices of the No-Conscription League?

A Well, I have -- I was the financial secretary of the League, and so most of the work was done in the office of The Blast, as my desk is in that office.

Q Now the office of The Blast, would be on what you call the third floor, is that correct?

A It is.

Q And is the literature of the No-Conscription League stored in the second floor in the office of Mother Earth?

~~MR. BERKMAN: I object.~~

~~THE COURT: Overruled.~~

~~MR. BERKMAN: Exception.~~

A I don't know whether it was or not.

Q Don't you really know?

A No, I don't know, Mr. Content.

MR. BERKMAN: Hold on a minute. May I say something here? The defense admits the No-Conscription League had its work done in the office of The Blast, and that the office of The Blast is one floor, or rather one room, a

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* little more, and the office of Mother Earth is another floor. There is no use wasting time about that.

MR. CONTENT: But the jury don't understand these things.

MR. BERKMAN: One hall and but only a few steps between one office and another office.

MR. CONTENT: Why can't she say that?

MR. BERKMAN: Sometimes bundles will be carried from one office to another.

MR. CONTENT: The question is whether the literature was stored in the Mother Earth office on the second floor, and she said she didn't know.

MR. BERKMAN: Well, she is not the editor in the department of literature.

MR. CONTENT: When you get on the stand you will have a chance to tell.

THE COURT: Everything else that you did, Mr. Berkman, except this last, was all right. You cannot state the evidence of the witnesses. You can make an admission, or you can object as you have done. For instance, if some of these witnesses go on the stand, you cannot state their evidence, as their evidence will be stated on the stand.

MR. BERKMAN: Exception.

Q Is the No-Conscription League incorporated?

A No.

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7 E Q Is it what you call a voluntary association?

A It is a voluntary association or group, whatever you want to call it.

Q Are there any officers of this association?

~~MR. BERKMAN: I object.~~

~~THE COURT: Overruled.~~

~~MR. BERKMAN: Exception. X~~

A I just told you.

THE COURT: Not officers, but —

MR. CONTENT: Officials, I mean.

~~X MR. BERKMAN: Objection withdrawn. X~~

THE WITNESS: I am the financial secretary.

Q You are the financial secretary. Is that practically equivalent to treasurer?

A Yes.

Q Any other officers?

A Leonard Abbott is secretary.

Q Is there any president?

A No.

Q No presiding officer?

A No.

Q Were Mr. Berkman and Miss Goldman members of the association?

MR. BERKMAN: I object. We admit we are members.

MR. CONTENT: I want to examine this witness in an

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orderly manner.

THE COURT: He has the right to object.

MR. CONTENT: He wants to take the stand.

MR. BERKMAN: You don't know what I want to do.

THE COURT: He objected properly, and the statement he is going to make is proper.

MR. BERKMAN: I objected to the question, and said I admit that we are members of the No-Conscription League.

MR. CONTENT: Then why can't Miss Fitzgerald say that you were?

MR. BERKMAN: It is admitted.

THE COURT: Now it is admitted. But, what do you say? You are on the stand? You are asked if these two defendants were members of the League, -- answer yes or no.

THE WITNESS: Yes.

Q They were?

A Yes.

Q Were they officers of the League?

A No, sir, there were only two, as far as I told you.

Q There were only the two officers you have mentioned?

A Yes.

Q Were these two defendants prominent in the work of the League?

A I will have to answer that as I did before the Grand Jury.

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Q No, answer it here.

A I said to you that if you meant intelligence and ability and good speakers, then they would be prominent.

Q I mean did they take an active part in the work?

A They were our best speakers at our meetings.

Q Did they have anything to do with the compilation of the literature printed by order of the League?

MR. BERKMAN: I object. When certain documents are put in evidence, we will, we are ready to admit our authorship.

THE COURT: Simply answer the question yes or no.

Q Yes or no, that is all, whether they had anything to do with the composition of the literature?

A Yes.

~~MR. BERKMAN: Objected to. That is too general a question.~~

~~THE COURT: Overruled.~~

~~MR. BERKMAN: Exception.~~

~~THE COURT: Answer yes or no.~~

~~THE WITNESS: What is the question? Read the question again, please.~~

~~Q Whether the two defendants took any part in the composition of the literature of the League?~~

~~MR. BERKMAN: I object. That is too general a question.~~

~~THE COURT: I have ruled. You may have an exception.~~

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~~X State yes or no.~~

~~MR. BERKMAN: Exception.~~

~~A. Yes.~~

Q Besides being the financial secretary, what other work did you do?

A You mean outside of the League?

Q Well, in that office, that is, 20 East 125th street?

A Well, I am associated with Mr. Berkman, I help him on the magazine or the paper called The Blast.

Q Are you an associate editor of the Blast?

A That is what it would be considered.

Q Do you write any of the articles yourself for it?

A I have written articles for it.

Q In the June issue, is there any article by yourself in that?

A No.

Q And did you assist in any way in making up the June issue of the Blast?

A Why, I helped in getting up all the issues, yes.

~~Q When you say, "helped", just give us a general idea, what sort of work you did?~~

~~MR. BERKMAN: I object. The defense admits Miss Fitzgerald is an associate worker, we call it.~~

~~MR. CONTENT: I am trying to find out what that is,~~

~~Mr. Berkman. I am not asking any improper questions, I~~ ~~X~~

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~~I~~ am sure.

~~THE COURT: The question is perfectly proper.~~

Q Suppose you just give us a general idea of what your work consists of, as what you call associate worker for the Blast?

A Writing and typing articles, and preparing them for the printer, or proofreading, or making up the dummy pages, if you understand what that is; answering correspondence; dictation, etc.; clerical work.

Q Have you any connection with Mother Earth or Miss Goldman?

A No, I have no official connection with Mother Earth, or Miss Goldman, except as a friend, I have helped Miss Goldman with some of her correspondence since I have been in New York.

Q Well, you have done certain stenographic work for Miss Goldman, since you have been in New York, have you not?

A Not in an official capacity, not as an officer in her office, but simply as a friend I have helped her with some of her correspondence and some of her lectures.

Q Have you had anything to do with Mother Earth at all in the nature of proofreading or copying?

A No.

~~Q Have you ever signed receipts?~~

~~MR. CONTENT: I withdraw that.~~

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Q Now, do you receive any salary for ~~being~~, acting as financial secretary of the No-Conscription League?

A No, sir, there are no salaries in it.

Q No remuneration?

A No.

Q For any of the officers?

A No.

Q How is the No-Conscription League supported?

A By voluntary contributions from individuals.

Q Personal appeals?

A Yes, personal appeals.

Q Through the mail at the times?

A Through letters, and at our meetings, collections at the meetings.

Q Meetings where a collection is taken from the general public, is that correct, at the meetings?

A Yes.

Q And then you send personal appeals through letters?

A Yes, that has been done.

~~MISS GOLDMAN: May I ask Miss Fitzgerald to speak a little louder. My stenographer don't hear a word.~~

~~THE COURT: You are quite right. Speak loud enough so that the last juror can hear you. This is a big room here.~~

~~THE WITNESS: I thought I was speaking loud.~~

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Q Is there any bank account of the League, that is kept by the League, itself?

A You mean a separate bank account?

Q Yes, a separate bank account.

~~MR. BERKMAN: Objected to as immaterial and incompetent.~~

~~THE COURT: She may answer yes or no.~~

A No.

Q Is Mother Earth incorporated?

A Not to my knowledge, no -- no, I know it is not.

Q And is it published by the Mother Earth Publishing Association?

A I think they call it the Mother Earth Publishing Association.

MISS GOLDMAN: It is published by the Mother Earth Publishing Association. It is not incorporated.

Q The Blast is not incorporated, either, is it?

A No.

Q Who is the publisher of the Blast?

A Alexander Berkman.

Q And was that paper published in another city before it was published in New York?

A It was.

Q In what City?

A San Francisco, California.

~~Q San Francisco, California?~~

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~~A San Francisco, California.~~

Q What was the date of the last issue, I mean what was the month of the last issue in California -- do you recollect?

A March, I think, 1917. I think we missed the April issue.

~~THE COURT: March, 1917.~~

~~THE WITNESS: Yes.~~

Q You missed the April issue?

A I think I am correct on that. I would have to look at the file. I think we missed the April issue on account of lack of funds.

Q Was there one issue published in New York in May, 1917?

A There were two issues published in New York.

Q Up to date?

A Yes, May and June.

~~Q May and June?~~

~~A Yes, May and June.~~

Q Do you know who the printer of the June issue of Mother Earth was?

MR. BERKMAN: Objected to as immaterial here. The defense admits that,-- one of the defendants, Alexander Berkman, admits publication and editorship of The Blast, a newspaper published originally in California, but recently and temporarily brought to New York.

We published the May and June issues in New York City.

~~THE COURT: In May and June?~~

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MR. BERKMAN:

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~~THE WITNESS:~~ Who the printer is, is quite immaterial.

MR. CONTENT: I don't think it is. I have the right to show the way in which it was printed, and all that.

MR. BERKMAN: I object. The paper itself shows that.

THE COURT: No, the paper would not be self-proving. You may answer who the printer was. You may have an exception.

MR. BERKMAN: Exception.

Q Do you know who the publisher of The Blast, of the June issue of The Blast was?

MR. BERKMAN: That is quite immaterial.

A Yes, I know the name.

Q Who was it?

A Which issue?

Q The June issue, 1917?

A The Gra²zel Press.

Q Do you know the name of the printer of the June issue of Mother Earth, who it was?

A The Gra²zel Press.

~~Q The Gra²zel Press?~~

~~A Yes.~~

Q Who is the publisher of Mother Earth?

A Emma Goldman.

Q Will you tell me about what date the so-called No-Conscription League was formed?

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A Well, I think, I am not sure, the first meeting, a little gathering, was on May 9th.

Q May 9th. Where was that held, that gathering?

A It was held in the apartment of Miss Goldman, at 603 West 139th street.

Q And was Mr. Berkman present at that meeting?

~~MR. BERKMAN: The defense admits Mr. Berkman was present.~~

~~MR. CONTENT: I have the right to ask this question.~~

~~THE COURT: You may say yes or no. Mr. Berkman says he was.~~

A Yes.

~~Q Was Mr. Berkman present?~~

~~A Yes.~~

Q Was Miss Goldman present?

A Yes, Miss Goldman was present.

Q Were you present?

A I was.

Q How many others were present, approximately?

A About thirty or thirty-five, perhaps.

~~Q Was Mr. Abbott one of that number?~~

~~MR. BERKMAN: I object. It is immaterial to this case.~~

~~MR. CONTENT: It is perfectly material. The indictment charges, "divers other persons".~~

~~THE COURT: I allowed it. You may have an exception.~~

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~~MR. BERKMAN: Exception.~~

Q Was Leonard D. Abbott present at that meeting?

A Am I to answer that?

THE COURT: Yes.

MR. CONTENT: Yes.

THE WITNESS: Yes.

Q Was Dr. Reitman present at that meeting?

A No.

Q Were any resolutions offered at that meeting of any sort?

A That meeting was called for the sole purpose of organizing a protest meeting against the registration law, conscription law, which had not been passed at that time. This was the 9th of May.

Q So I understand. This is only historical.

A Yes, and that meeting was called for the sole purpose of planning or organizing a large protest meeting against this conscription law that was about to go into effect, or that was being talked about in Congress. That little gathering, preliminary gathering, was for that purpose.

Q But it was at that little gathering Mr. Abbott was chosen as secretary of the league and yourself as financial secretary?

A At that little gathering that evening.

Q Was your selection as secretary the result of a popular choice, or were you appointed by Miss Goldman or Mr. Berkman, or how did you come to be financial secretary?

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A Why, I was appointed, -- it was agreed by the whole crowd of people that were there.

Q In other words, you were agreeable to everybody present?

A Yes.

Q Was there a regular ballot taken, or was it sort of informal?

A No, it was informal.

Q And the same would hold true of Mr. Abbott's selection?

A Yes.

Q Was anything further done on that occasion?

A No, except we decided to get out letterheads and envelopes.

Q That was decided on that occasion?

A Yes, and it was decided to get out a manifesto on that occasion, to be distributed at our meetings.

Q Now, I show you a bundle of so-called manifestoes, are these the kind of documents you referred to, that you just referred to as manifestoes?

A Yes.

MR. BERKMAN: The defense admits issuing these documents.

MR. CONTENT: No, that is not the question. The question I asked has to do with what she referred to in her testimony.

THE COURT: You may take Mr. Berkman's answer, and

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let the witness answer.

Q Does this represent what you refer to in your testimony by the word "manifesto" in your previous answer?

A Yes, that is the manifesto.

MR. CONTENT: I ask to have this marked for identification. One of these will do.

(Marked Government's Exhibit No. 1 for identification).

~~MR. BERKMAN: Could I have one of these, since you took them all away?~~

~~MR. CONTENT: Sure (handing Mr. Berkman paper)~~ X

Q Now, you say it was decided at that meeting to issue these manifestoes. Let me ask you this:

MISS GOLDMAN: May I say something to facilitate matters? It was not decided at that meeting to publish this manifesto.

MR. CONTENT: Now Miss Goldman is testifying. Now, if you will only let me go ahead, I will get ahead much more quickly.

THE COURT: Yes, make a note of it, and when Mr. Content is through, if you think Miss Fitzgerald has made any errors, you can ask her questions.

MR. CONTENT: Yes, I think we will proceed much more effectively.

MISS GOLDMAN: All right, then.

MR. BERKMAN: We do not deny that document. It is only a question of the date.

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~~MR. CONTENT: I am trying to find out the date from the mouth of the witness.~~

~~THE COURT: Well, we are getting along very nicely.~~

Q Now, at this time, had the subject matter of these manifestoes been decided upon?

A No.

Q It was merely decided, according to your testimony, that some sort of a manifesto was to be gotten up?

A Yes, merely obtain the information.

~~MR. CONTENT: That is all I want.~~

~~THE WITNESS (continuing):~~ (The main purpose of that meeting was to plan a large protest meeting.

Q Well, this Government's Exhibit 1 for identification, when was the subject matter of that passed on, -- only approximately?

A I can't tell you that, I don't know.

Q Was it before the meeting of May 18, 1917?

A That I know. It was before the meeting of May 18th.

Q And your best recollection would be that it was after this informal meeting?

A Yes.

Q It had not been printed at that meeting?

A No.

Q So that it was somewhere between those dates?

A That is my best recollection. I have no records, because

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you have them all.

~~MR. CONTENT: Well, that is all I want on that.~~

Q Do you know who composed the subject matter of this Government's Exhibit 1 for identification?

~~MISS GOLDMAN: I object to that.~~

~~MR. CONTENT: May the witness answer that, instead of Miss Goldman.~~

~~THE COURT: No, wait a minute. Miss Goldman has a perfect right at any time, or the other defendant, to make admissions on the record.~~

~~MR. CONTENT: I only asked the witness if she knew. She can answer yes or no.~~

~~THE COURT: Yes, but her admission does not interfere with the witness's answer. They have both a perfect right to address the Court.~~

~~Q Now, so far as your recollection goes --~~

A My understanding is of that manifesto that Miss Goldman wrote it.

Q And do you know what printer physically printed that manifesto, -- just do you know it?

A Yes.

Q Who was it?

A The Graphic Press.

Q Do you know who placed the order for the printing of these manifestoes?

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A No, sir, I cannot tell you.

~~MR. BERKMAN: Objection.~~

~~THE COURT: She said she didn't know. She said she couldn't say.~~

~~MR. CONTENT: She said she couldn't say.~~

~~THE COURT: Yes, she don't know. X~~

Q After this informal meeting of May 13th -- this informal meeting was May 8th?

A May 9th.

~~Q After that, what was the next step taken by the League, or the persons who composed it?~~

~~MR. BERKMAN: Objection. The question is too general in character.~~

~~THE COURT: Objection sustained. X~~

Q Well, when was there another meeting held?

A There was a little preliminary meeting on the 15th of May.

Q Where was that held?

A planning for funds, arranging for committees, etc., for this meeting of May 18th.

Q Where was this meeting held on the 16th?

A The May 16th meeting was held in the office of The Blast, or the Mother Earth.

Q Somewhere at 20 East 125th street?

A Yes, sir, 20 East 125th street.

Q At what ever headquarters there were of the No-Conscrip-

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tion League itself?

A Yes.

Q Was Mr. Berkman present at this meeting of May 16th?

MR. BERKMAN: No. The defense admits Mr. Berkman was present.

THE COURT: What is your recollection?

THE WITNESS: My recollection is he was present at that little gathering.

Q And is it your recollection, Miss Goldman was present or not?

MISS GOLDMAN: She was present.

MR. CONTENT: I am asking for the witness's recollection.

THE COURT: The stenographer will take the statement of the defendant and of the witness.

A Miss Goldman was present.

Q Were you present?

A I was.

Q Was Mr. Abbott present?

A No.

Q How many others were present besides Mr. Berkman, Miss Goldman, and yourself, approximately, -- always approximately?

A Oh, perhaps fifteen or twenty people.

Q And the meeting, that is of May 18, 1917, was held where?

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A It was held at what is known as the Harlem River Casino.

Q Is that an auditorium or a hall?

A I think it is called a hall, it is a large hall.

Q Were you present at that meeting?

A I was.

~~THE COURT: Is that the place where --~~

~~THE WITNESS: 128th street.~~

~~THE COURT: 128th street and Second Avenue, or some-
where around there?~~

~~THE WITNESS: Yes.~~

Q And that was the night of May 18th?

A The night of May 18th.

Q Was Miss Goldman a speaker at that meeting, according
to your recollection?

A She was.

Q Was Mr. Berkman a speaker at that meeting according to
your recollection?

A Yes.

~~MR. BERKMAN: He was.~~

~~THE WITNESS: Yes, he was.~~

~~Q I am always asking, you understand, for your best
recollection?~~

~~A Well, right here, I would like to explain something.~~

~~Q Certainly.~~

~~A If I hesitate regarding these speakers, I was left at~~

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~~the stage door entrance to guard the meeting against the soldiers and sailors, and really did not hear any of the speakers, and so I hesitate about the speakers at that meeting.~~

~~MR. CONTENT: I want to be fair, and I only ask you for your best recollection. No one can give more than that.~~

Q Your best recollection is that Miss Goldman did speak, whether you heard her speech or not?

A Yes.

Q And do you know how much was paid for the rental of the auditorium or hall on that evening?

A Yes, I know.

Q What was it?

A Fifty dollars.

Q Did you pay the fifty dollars personally?

A I paid part of it.

Q Did you pay the part of the fifty dollars, yourself, you personally?

A I did.

MR. BERKMAN: Objection. The defense admits Alexander Berkman gave a deposit for this meeting, and attended to the arrangements.

MR. CONTENT: That does not agree with her testimony. She said she gave some. Just let me straighten this out.

THE COURT: Let me get that straight. Did you physically pay the money?

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THE WITNESS: I paid a part of it.

Q Do you remember what part you paid?

A As I remember it, I gave forty dollars.

Q I show you an original contract, signed No-Conscription League, and in ink Alexander Berkman, and--

~~X MR. BERKMAN: The defense wants to see these documents.~~

~~THE COURT: Yes.~~

~~Q Is this the signature of Mr. Berkman?~~

~~THE COURT: No, you need not answer that.~~ X

MR. BERKMAN: This is my signature, and the defense admits this signature as being that of Alexander Berkman.

MR. CONTENT: Do you concede you paid a ten-dollar deposit?

MR. BERKMAN: I do not concede. I made a statement that I made the arrangements for the meeting and paid a deposit of ten dollars for the meeting. I am quite sure it was ten dollars.

Q I show you a duplicate copy, and ask whether that is the receipt you obtained from Mr. Motz, manager or proprietor of this Harlem River Park and Casino?

A Yes, I should say that was the duplicate he gave me.

Q At the time you paid the balance due?

A Yes.

Q Did you pay that balance on the night of the meeting?

A The night of the meeting.

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Q Was it in cash, or check, if you recall.

A By check.

MR. CONTENT: I offer in evidence the duplicate receipt, and ask to have the original marked for identification. No, I offer this in evidence. Mr. Berkman concedes the signature.

THE COURT: Yes.

MR. CONTENT: I offer the original contract, and the receipted contract in evidence.

(The original contract was marked Government's Exhibit No. 2 and the duplicate receipt was marked Government's Exhibit No.3)

MR. CONTENT: This is the original. I want to read the whole contract. (reads to the jury)

Q Miss Fitzgerald, ~~I show you one of the letterheads of the No Conscription League.~~

~~MR. BERKMAN: May the defense see the letterhead?~~

~~THE COURT: Yes, you may.~~

~~MR. CONTENT: Just answer the question.~~

~~THE COURT: I will instruct you, Mr. Berkman, that the procedure is to show the witness the document, and ask a question. Then, after she answers the document is shown to you before it can be introduced in evidence.~~

Q I show you the letterhead of the No-Conscription League, 20 East 125th street, and ask you whether or not that was printed by the Graphic Press, the letterhead?

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~~MR. BERKMAN: Objection.~~

~~THE COURT: Overruled.~~

~~MR. BERKMAN: Exception. Miss Fitzgerald can't possibly know.~~

~~MR. CONTENT: That is leading her.~~

~~THE COURT: But that is perfectly proper, because she could not possibly know. X~~

~~Q Do you know?~~

A I can't say.

Q What is your best impression?

A I really don't know.

~~MR. CONTENT: All right, that is all right.~~

Q Now, this work is multigraph work, the body of this circular letter which I show you?

A Yes, that is multigraph work.

Q By whom was that multigraph work done, do you know?

~~MR. BERKMAN: Objection.~~

~~THE COURT: Overruled. You may state if you know?~~

A I don't know who did that multigraph work.

Q You really don't?

A I don't know.

Q Were you not the financial secretary of the League?

A I cannot tell without you give me our records to look through.

Q Which records do you want?

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A - The bills and things.

MR. BERKMAN: The defense is going to admit every document that we issued, every signature that is genuine, and all of our work was that done. But there was so much work done in that office, for various purposes, downstairs the Mother Earth, upstairs The Blast and No-Conscription League, and then we had various other troubles, sickness, etc., so that there is no way for any particular person to know all about the work done.

~~MR. CONTENT: Who paid the bills, if she was the financial secretary?~~

~~MR. BERKMAN (continuing): And therefore, I object to that check, because I would have to see the statement for the particular check before it could be said who attended to that particular work.~~

~~THE COURT: That may be, but frequently where many documents are gotten out, some bill or receipt or something refreshes a witness's memory.~~

~~MR. BERKMAN: Yes.~~

~~THE COURT: And he is only, the Government attorney is only asking the witness for her best recollection, and there is no suggestion that she is not giving her best recollection.~~

~~MR. BERKMAN: I mean this only as a matter of being correct, not making any mistake X~~

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~~THE COURT: Yes.~~

Q Then you do not remember who did that multigraphing work?

A I can't tell you what multigraph company did that, without seeing the receipted bill, -- I mean that particular letter.

Q Did you give the work to different multigraph companies?

MR. BERKMAN: Certainly.

A Well, there were different companies that did different letters, and I don't know which one did that one.

Q Just take and look at this letter dated May 25, 1917.

~~MR. BERKMAN: Objection.~~

~~MR. CONTENT: I just asked her to look at it.~~

~~MR. BERKMAN: That is my objection. One cannot tell by looking at the letter, who did the work.~~

~~THE COURT: He has not asked that.~~

~~MR. BERKMAN: But, I do not want the impression created that Miss Fitzgerald don't want to answer the question, or we don't.~~

~~MR. CONTENT: If you will listen to the question I just asked. I just asked her to look at it. I am going to ask her a question later.~~

~~MR. BERKMAN: There is no way of her telling.~~

~~THE COURT: I said before that while the jury are always the judges of the credibility of the witness, there does not seem to be any purpose on the part of Miss Fitzgerald not to state what the facts are. It is not strange that~~

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~~she does not remember everything about all the documents.~~

~~MR. CONTENT: I have not asked any question.~~

Q You have seen that form letter before?

A Yes.

Q Is this one of the regular form letters of the No-Conscription League?

A yes.

Q And were letters of this type sent out through the mails?

A Through the mail to different lists.

Q How, -- where did you obtain your lists?

A Well, I had them, --

~~MR. BERKMAN: Exception.~~

~~THE COURT: Overruled.~~

MR. BERKMAN: Exception. The defense admits the Mother Earth and The Blast lists were used for that purpose.

Q Mr. Berkman has stated the Mother Earth and The Blast lists were used for that purpose. Didn't you send them to people who were on either of those lists?

A Yes, there were several lists that were used, different lists.

Q For example, I received one, and I am not a subscriber to Mother Earth. Do you know how they would obtain a name like mine, -- not that that is in evidence, but I just mention that, because I am not a subscriber.

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~~THE COURT: What lists were these?~~

~~MISS GOLDMAN: May I say something at this moment?~~

~~THE COURT: Yes.~~

~~MR. CONTENT: Do you want to make a concession~~

~~MR. BERKMAN: No concession.~~

~~MISS GOLDMAN: No.~~

~~MR. CONTENT: Then I object to it.~~

~~THE COURT: I will hear it.~~

MISS GOLDMAN: Miss Fitzgerald has already stated that she has been in the office only a very short time, having come from California. Now, in the office of Mother Earth and The Blast we have at least a dozen different lists, used for a dozen different purposes, and Miss Fitzgerald uses the list.

THE COURT: Now, that is perfectly all right, that is perfectly proper. Mr. Berkman said, as I understand it, and you may correct me if I am in error, that there was a Mother Earth list and a Blast list, to whom you sent this paper which has just been shown you by Mr. Content?

THE WITNESS: Yes.

THE COURT: Now, you also said there was some other list.

THE WITNESS: There were some others.

THE COURT: Now, what were those lists?

THE WITNESS: Well, there were lists I got from Miss

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Goldman, I don't know where she got them.

MR. CONTENT: That is an answer. That is all I want.

THE COURT: And by lists, you mean collections of names and addresses?

THE WITNESS: Yes.

MR. CONTENT: That is all I want.

Q Now, look at this form letter, which is undated --

THE COURT: By the way, this other one, you better have marked.

MR. CONTENT: I will have this marked for identification, Government's Exhibit 4 for identification.

(Marked Government's Exhibit No. 4 for identification).

~~X MR. BERKMAN: The defense has not seen that letter.~~

~~May the defense see that letter?~~

~~MR. CONTENT: I have not offered it in evidence.~~

~~THE COURT: Before it goes into evidence, you are entitled to see it. One of the purposes of marking a thing for identification is that the District Attorney and yourself will be constantly saying "this list" and "that list" and it is very confusing unless you have a number to it, for the record. That is the sole purpose.~~ X

Q I show you another form letter, beginning, "Dear Friend", and ask you is that one of the form letters sent out by the No-Conscription League?

A Yes, this is one of the form letters.

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Q And your testimony with regard to Government's Exhibit 4 for identification would also apply to this one? I mean the same would be true of this letter as of the previous letters.

A In what respect?

Q I mean as to its being sent out according to lists?

A Yes.

MR. CONTENT: I ask this to be marked for identification.

(Marked Government's Exhibit 5 for identification.)

MR. CONTENT: That is an undated one.

Q I show you a third, dated June 7, 1917, and I ask you is that, too, a form letter of the No-Conscription League?

A May I see both of those letters again?

Q Surely. (handing same to witness) I think this is the first, this was what I showed to you first, it is dated May 25. And this is the second one, that is undated. The first one which I showed you was dated May 25th, 1917, and the second was undated, and the third dated June 7.

Now, will you answer this question, first, -- is the one of June 7th also a form letter?

A Yes, those are form letters, but I am trying to figure out the difference in these two letters.

Q There is very little difference between the undated one and the one of June 7th. I think the one of June 7th acknowledges the receipt of a communication.

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A Yes, those are form letters.

Q All three are form letters?

A Yes.

Q All sent out according to lists?

A Yes.

Q Either from Mother Earth or some other list as submitted to you by Miss Goldman?

A Yes.

(Letter of June 7th, marked Government's Exhibit 6 for identification).

THE WITNESS: Mr. Content, one of those letters is an answer to their sending funds to us.

Q That is the one of June 7th?

A Yes.

Q That is Government's Exhibit 6 for identification?

A Yes.

THE COURT: Let me ask something before I forget it. When was this name, "No-Conscription League", adopted, -- was that adopted at that first meeting on the 9th of May?

THE WITNESS: At the first meeting.

~~THE COURT: At the first meeting.~~

~~THE WITNESS: Yes~~

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Q That is the informal meeting held at Miss Goldman's apartments?

A Yes, the very first meeting held.

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Q I show you an envelope addressed William C. Demarest, 18 East 94th street, on the letterhead of the No-Conscription League, and I show you a form letter of May 25, 1917. Just look at them, and say whether it corresponds with Government's Exhibit 4 for identification, — that is, the same letter I previously showed you?

A Yes.

Q I show you this manifesto, and ask you whether that is the same as Government's Exhibit 1 for identification, the first one I showed you?

A It is.

Q For identification, I mean, Exhibit No. 1?

A Yes.

Q I show you a handbill, announcing the meeting of June 4, and ask you whether that handbill was gotten out by the No-Conscription League?

A It was.

Q And would the same be true of the handbill as of the other documents?

MR. BERKMAN: Objection. The defense admits having handbills for each particular mass meeting.

Q I will show you this handbill. Do you concede that is one of the handbills of the No-Conscription League?

MR. BERKMAN: This is one of the handbills issued by the No-Conscription League for one meeting.

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MR. CONTENT: I want to ask whether this letter and those enclosures were sent out at the direction of the League, Miss Goldman, and yourself. You don't have to admit it, if you don't want to.

MR. BERKMAN: The No-Conscription circular and the No-Conscription handbill, and the circular letter?

MR. CONTENT: Of May 25th.

MR. BERKMAN: Of May 25th. The defense admits these were sent to various people.

MR. CONTENT: Through the mail?

MR. BERKMAN: Through the mail, yes.

MR. CONTENT: I ask to have these three marked for identification.

(Marked for identification as follows):

THE COURT: They will be marked Government's Exhibit 7 for identification.

MR. CONTENT: 7-A, 7-B and 7-C.

THE COURT: 7-A, 7-B, 7-C.

MR. CONTENT: Mark the envelope A.

THE COURT: Are there just the two?

MR. CONTENT: There are 3 enclosures. Mark the envelope 7, the circular 7-A, the handbill 7-B and the manifesto 7-C.

(Marked 7, 7-A, 7-B and 7-C for identification).

Q I show you a rubber stamp, "Alexander Berkman", and

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ask you if you know whether that was placed there with Mr. Berkman's consent, or direction?

MR. BERKMAN: Objection. The defense admits that whenever Mr. Berkman was too busy, or probably sick, the direction was to use his rubber stamp.

MR. CONTENT: Then this rubber stamp, "Alexander Berkman" was put there with your consent, --

MR. BERKMAN: Yes, sir, to that document, it was put by my direction and request.

MR. CONTENT: I show you, -- maybe we can save time by speaking together. Here is another one of the same type, sent to the City Editor of the New York Times, exactly the same. The only difference is that this has no handbill, and it has a subscription blank.

MR. BERKMAN: Yes. Similar letters were sent to the editors of the press, not because we considered them friends, but simply to let them know about the work being done.

MR. CONTENT: Then you concede that this letter to the City Editor of the Times, with its inclosures, was sent out by your directions?

MR. BERKMAN: By my directions, yes.

MR. CONTENT: A letter and manifesto and subscription list.

MR. BERKMAN: Yes, by my direction.

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MR. CONTENT: Now I ask this be marked Government's Exhibit 8 for identification, that is the envelope, and 8-A for the letter, and 8-B the manifesto, and 8-C the subscription blank.

(Marked Government's Exhibits 8 and 8-A for identification).

MR. CONTENT: I have another one, Mr. Berkman. I think that is all I will cover. It is the same thing.

MR. BERKMAN: That is the same letter, that is admitted.

MR. CONTENT: I will only ask to have the envelope marked in this case: A letter addressed to Clarence Lyman ^{Collins}, postmarked May 30, 1917, station L, was shown to Mr. Berkman, and he said that that, too was sent out the same as the others.

MR. BERKMAN: It was sent out in the general work of the No-Conscription League.

MR. CONTENT: Mark the envelope Government's Exhibit 9.
(Marked Government's Exhibit 9).

MR. CONTENT: Now, I show you another letter, postmarked New York, May 25, 1917, containing, or rather contained in the envelope of the No - Conscription League, addressed to Frank Harrison, of Denver, Colorado, and I show you the same circular letter of May 25, 1917, and with a rubber stamp, "Emma Goldman". Will you please state whether or not the rubber stamp was placed there by Miss

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Goldman's direction.

MR. BERKMAN: Objection. The defense will simplify matters by explaining that the same circular letter was sent out to the subscribers of The Blast, the paper of which I am editor, and those were signed in my name; and the same letter was sent out by Miss Goldman to the subscribers to her magazine, and signed by her or by her rubber stamp.

MR. CONTENT: Will Miss Goldman concede the rubber stamp was put there with her consent?

MISS GOLDMAN: If I may state now, I have done a great deal of lecturing all over the country, and I cannot sign all the letters, but a rubber stamp is used in the office to sign letters that go out to Mother Earth subscribers.

THE COURT: The only question is, whether this was done with your consent and direction, -- that is the question.

MISS GOLDMAN: Is that the same letter?

MR. CONTENT: Yes, that is the same letter there with the rubber stamp, "Emma Goldman".

MISS GOLDMAN: Yes, done with my consent.

MR. CONTENT: That will simplify it very much.

MISS GOLDMAN: Yes.

MR. CONTENT: I offer that other one here in evidence,

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United States v. Goldman & Berkman: Stenographer's Minutes [1917 June 27 to July 9] / William J. Finerty, Stenographer, United States District Court, Southern District of New York. — 824 p. ; 28 x 22 cm.

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with Miss Goldman's signature, the letter to Harrison, and ask to have this marked Government's Exhibit 10 for identification.

THE COURT: That is the letter to Harrison?

MR. CONTENT: Yes, May 9.

THE COURT: Exhibit 10 is the envelope to Frank Harrison, 10-A the letter of May 25, and 10-B, the manifesto.

MR. CONTENT: I think we will use the term "manifesto" thereby simplifying matters.

THE COURT: Yes, Miss Fitzgerald said that.

MR. CONTENT: And 10-C is the subscription blank.

THE COURT: I think you failed to note the contents of Government's Exhibit 9 for identification.

MR. CONTENT: I did not offer that. I did not have that marked separately. I showed it to Mr. Berkman, and they were exactly the same as Exhibit 8.

THE COURT: Very good. That is Government's Exhibit 9 for identification, the envelope with the contents.

MR. CONTENT: Yes, the envelope with the contents, and they are exactly the same as Government's Exhibit 8 for identification.

THE COURT: Very good.

MR. CONTENT: And this is Government's Exhibit 10 for identification (indicating).

~~Q Now, I show you an application for telephone service.~~

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A I want to say something regarding those letters.

Q Surely.

THE COURT: Yes.

A I want to explain in using Mr. Berkman's name and Miss Goldman's name, having charge of sending out these lists, I got the Mother Earth list from Miss Goldman, and I used the Blast list, or the people that know Mr. Berkman, from The Blast list, and sent this letter. To the people that have known Mr. Berkman, I put on the rubber stamp, Alexander Berkman, and on the Mother Earth list, the ones that know Miss Goldman, I had her stamp put on. I just didn't want you to misunderstand that. Some were signed in my own name.

Q Take Government's Exhibit 7, addressed to Mr. Demorest, who does not happen to be a subscriber to either of the publications, which letter was signed, "Alexander Berkman". Do you recall where you got the list concerning his name?

A I cannot.

~~Q Did Mr. Berkman give you a list other than the Blast list?~~

~~MR. BERKMAN: I object. The defense wants to explain.~~

~~THE COURT: Surely.~~

~~MR. BERKMAN: For instance, so far as Mr. Berkman's is concerned, --~~

~~MR. CONTENT: That is, those signed "Alexander Berkman".~~

~~MR. BERKMAN: Outside of the list of subscribers to~~

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~~Y The Blast, I might happen to think of a few names of
persons, friends, or acquaintances, and I would direct an
envelope to be written to them, or send a circular with
my name.~~

~~Q Then, all these form letters went out in the regular
course of the work of the No Conscription League?~~

~~MR. BERKMAN: Yes.~~

~~MR. CONTENT: That is a fair statement.~~

Q Now I show you a telephone contract, dated May 13, 1917,
and ask you whether that is Mr. Berkman's signature on the right
hand side?

A Yes, that is Mr. Berkman's signature.

Q I show you a --

MR. BERKMAN: May I see that, please.

(Handed to Mr. Berkman) That is my signature, yes. The de-
fense admits the signature of Mr. Berkman.

MR. CONTENT: I ask to have this marked for identifi-
cation.

(Marked Government's Exhibit No. 11 for identification.)

Q I show you a telephone contract dated December 30, 1914,
signed Alexander Berkman, by Emma Goldman, Attorney-in-fact,
and ask you whether that is Miss Goldman's signature?

~~MR. BERKMAN: Objection. The defense wants to look
at the document.~~

~~MR. CONTENT: Just a moment. Let her state whether~~

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~~It is.~~

~~THE COURT: Yes, she can state whether she knows.~~

~~MR. BERKMAN: Miss Fitzgerald probably was not in New York at that time.~~

A You asked me is that Miss Goldman's signature?

Q Yes, Alexander Berkman, by Emma Goldman, Attorney in fact?

A I would say it was her signature.

THE COURT: You have seen her write?

THE WITNESS: Yes.

~~Q You have seen her write?~~

~~A Yes.~~

Q You are familiar with her handwriting?

A Yes.

MISS GOLDMAN: May the defense see it?

(Same handed to Miss Goldman).

Yes, that is my signature, yes, indeed.

MR. CONTENT: I ask to have this marked for identification as Government's Exhibit No. 12.

MR. BERKMAN: Is that the first contract?

MR. CONTENT: Yes.

MR. BERKMAN: 1914?

MR. CONTENT: 1914, and has been renewed from time to time. That is the original (indicating).

Q Miss Fitzgerald, I show you a receipt of the Walker En-

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graving Company for Engraving work.

MISS GOLDMAN: Objection. I have always dealt with the Walker Engraving Company myself.

MR. CONTENT: I have not asked a question.

THE COURT: Wait a moment.

Q (continuing) And I ask whether that is Mr. Berkman's signature attached to the receipt, dated May 14?

THE COURT: What year.

MR. CONTENT: This year. It is not dated, but it has reference to this year.

A Yes, I think so, I would say it is Mr. Berkman's signature.

Q You have seen him write?

A Yes.

Q You are familiar with his signature?

A Yes.

MR. BERKMAN: May the defense see that.

MR. CONTENT: Yes. (handing Mr. Berkman paper)

MR. BERKMAN: That is my signature. The defense admits this signature.

MR. CONTENT: I ask to have that marked Government's Exhibit 13 for identification.

(marked Government's Exhibit 13 for identification).

THE COURT: Was that May 14, 1917.

MR. CONTENT: Yes.

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~~THE COURT: 1917?~~

~~MR. CONTENT: Yes.~~

~~I will show you that paper first, Mr. Berkman. It will save time. (showing Mr. Berkman paper)~~

~~MR. BERKMAN: It will save a lot of time.~~

MR. CONTENT: Well, I produce another receipt of the Walker Engraving Company, for a large engraving marked "Conscientious Objector", and ask Mr. Berkman whether he wants to consent that that is his signature to the receipt.

MR. BERKMAN: I will say that is a receipt for another electrotpe.

MR. CONTENT: Well, that is the copy, you know, not the original.

MR. BERKMAN: Yes.

MR. CONTENT: The copy.

MR. BERKMAN: That is the copy, I know I signed for it.

MR. CONTENT: Then, this is Government's Exhibit 14.

(Same so marked)

MR. CONTENT: I show Miss Goldman a copy of a lithographic engraving entitled, "June 5, in memoriam", and ask whether that is the signature of the Mother Earth Publishing Association?

MISS GOLDMAN: Yes, it belongs to Mother Earth.

MR. CONTENT: I ask to have that marked Government's

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Exhibit 15 for identification.

(Marked Government's Exhibit 15 for identification).

MR. CONTENT: I show you, Mr. Berkman, an engraving by Maurice Becker, with the words, "Free Russia" in one part thereof, and ask you whether you will concede that was delivered to you?

MR. BERKMAN: Yes, the cut of a cartoon for the cover of the last issue of The Blast.

MR. CONTENT: The cut for the cover of the last issue of The Blast.

~~THE COURT: What is that?~~

~~MR. CONTENT: The cut for the cover of the last issue of The Blast.~~ I ask to have that marked Government's Exhibit 16 for identification.

(Marked Government's Exhibit 16 for identification).

Q Now, Miss Fitzgerald, I show you two wrappers containing publications which were found in the office of Mother Earth, or the No Conscription League, on the day of the arrest of Emma Goldman and Alexander Berkman. Do you know if you can identify these, tell us what they are?

MR. BERKMAN: Objection, on the following grounds:

As hundreds, maybe thousands, of copies of these have been sent out, it will be quite impossible for anyone to identify one particular wrapper.

MR. CONTENT: She may examine them, take them out, and

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tell what they are.

MR. BERKMAN: But the defense will concede that hundreds of such packages were being sent out all the time by Mother Earth, and by The Blast, for the furtherance of their work.

~~THE COURT: Suppose you submit that to Mr. Berkman.~~

~~MR. CONTENT: He knows what they are. This is Mother Earth.~~

MISS GOLDMAN: Your Honor, this is the magazine, Mother Earth, which goes out every month for the last twelve years.

MR. CONTENT: Then it is conceded these are the issues of Mother Earth of June, 1917, which were placed in wrappers for the purpose of going out.

MISS GOLDMAN: If that is the magazine, then I admit it.

MR. CONTENT: They were placed in wrappers for the purpose of being sent out.

MISS GOLDMAN: They were.

15 THE COURT: What issue?

MR. CONTENT: June, 1917.

THE COURT: Have they been marked?

MR. CONTENT: It is not necessary at this time because I will offer them all later through the special agent.

THE COURT: Very well.

Q Now, Miss Fitzgerald, you have stated in a previous

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part of your examination, that the No-Conscription League was supported by voluntary contributions, and it had no special bank account of its own in its own name, is that correct?

A That is correct.

Q What was done with the moneys collected at ~~any~~ these several meetings, which were held under the auspices of this so-called No-Conscription League?

A The moneys that were collected in the meetings?

Q Yes.

A Well, the money collected in the meetings, hardly covered the expense of the different meetings.

Q I didn't mean that. I meant was it paid out direct, in cash, or put in bank deposits, or what was done with it, physically?

A Some was paid out in cash, some was put in the bank, and then paid out.

Q What bank?

A You mean the name of the bank?

Q Yes.

A The Produce Exchange Bank.

Q Is that the Harlem Branch?

A Yes.

~~Q In whose name was the name in the produce Exchange Bank,~~
Harlem Branch?

~~MR. BERKMAN: Objected to on the ground that it is im-~~

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material.

THE COURT: Your question should be in whose name was the account, you said in whose name was the name.

X MR. CONTENT: I beg your pardon.

MR. BERKMAN: I still object on the ground that it is immaterial. May I say something?

THE COURT: Yes.

MR. BERKMAN: The work being done rather in a hurry, and so much work being on hand, there was not the time to open up a separate account, and so the money would be paid out, --

MR. CONTENT: That is a matter of defense.

THE COURT: Let him finish his statement.

MR. BERKMAN: And it has been mentioned here in this examination a moment ago that the balance of \$40 for the first mass meeting was paid in cash from collections right on the spot, -- how was it paid.

THE WITNESS: Paid by check, the balance.

MR. BERKMAN: I did not remember. Was it paid before the collection?

MR. CONTENT: This is improper. I have a right to examine.

MR. BERKMAN: The point is this: There was no time to open a special account. It sometimes was deposited in no way at all. It was placed in the account, --

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~~MR. CONTENT: He can bring all that out on his cross-examination. This is my inning.~~

~~THE COURT: The matter is going very well.~~

~~MR. BERKMAN: It was in The Blast account,~~

~~THE COURT: The question is a proper one, and she should answer it, and you may have an exception to my ruling.~~

~~MR. BERKMAN: Exception.~~

Q The moneys that were placed in the Produce Exchange Bank, in whose account were they placed, to the credit of whose account?

THE COURT: In whose name?

A Well, checks and money, ones that came in for the No-Conscription League, I endorsed over to Alexander Berkman, and they were put under his account.

Q I show you a letter of June 4, 1917, signed Alexander Berkman, and addressed to the New York Produce Exchange Bank, and ask you whether that is Mr. Berkman's signature on the one side, and yours in the lefthand corner?

A No, I signed both of them, I wrote the letter.

Q You wrote that letter?

A Yes.

Q On the typewriter?

A Yes, sir, on the typewriter.

Q And signed both?

A I signed both.

~~MR. BERKMAN: May the defense see that document?~~

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THE COURT: Was that with Mr. Berkman's consent?

THE WITNESS: Yes. May I explain?

MR. CONTENT: Yes.

THE WITNESS: I sent a young man to the bank with some No-Conscription checks, etc., for the No-Conscription League, and I had instructed him to have them deposited to Mr. Berkman's credit, because we were using just the one check book, and the bank refused to do that, unless I should sign a statement, or Mr. Berkman would sign a statement, to the house that it was all right, and so this was done in compliance with the request of the bank.

MR. CONTENT: Well, I offer this in evidence.

(Same handed to Mr. Berkman).

THE COURT: It is just an authority to the bank to accept Miss Fitzgerald's deposits.

MR. CONTENT: I offer it in evidence.

MR. BERKMAN: No objection.

~~THE COURT: With the consent of the defendant Berkman.~~

~~MR. CONTENT: He didn't say that.~~

~~THE COURT: Was it with the consent of the defendant?~~

~~MR. CONTENT: He didn't say that.~~

~~MR. BERKMAN: The deposit? Yes, for a special reason.~~

~~May I state it?~~

~~THE COURT: Yes.~~

~~MR. BERKMAN: Since Miss Fitzgerald used to deposit~~

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~~money of The Blast, and she was financial secretary of this No Conscription League, it was the easiest way to avoid trouble, and transferred moneys that she deposited, in some account.~~

~~THE COURT: Now, the Government offers this paper in evidence?~~

~~MR. CONTENT: Yes, he said he had no objection.~~

~~MR. BERKMAN: No.~~

~~THE COURT: Very well.~~

(Marked Government's Exhibit No. 17 in evidence).

MR. CONTENT: This is on the letterhead of the No -
Conscription League, ^{Second} ~~Lyman~~ D. Abbott, Secretary, M. E. Fitzgerald, Financial Secretary, telephone Harlem 6194, Na-Con-
scription League, 20 East 125th street, New York.

(Reading Exhibit No. 17).

~~MR. BERKMAN: May I just say a word about this?~~

~~MR. CONTENT: I object to it.~~

~~THE COURT: No.~~

~~MR. BERKMAN: With regard to this statement --~~

~~MR. CONTENT: I have read it, that is all.~~

~~THE COURT: You can explain later, and bring out any point through Miss Fitzgerald that you desire. The only question now is as to the admissibility of the evidence. You may pass that letter to the jury, Mr. Content.~~

Q Now, Miss Fitzgerald, I show you a stub check book of

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the Produce Exchange Bank, and ask you whether that is the stub check book of Alexander Berkman?

A Yes.

Q When did you come to New York, this last time, I mean?

A I have been here about two months. I don't know the date when I came.

Q Well, now, this Produce Exchange Bank, was that Mr. Berkman's personal account?

A He had different funds, for The Blast, his personal --

Q That is what I mean. What does this account represent, funds of The Blast, that is, the publication?

A Yes.

~~Q What else?~~

~~MR. BERKMAN: Objection.~~

~~Q What else?~~

~~MR. BERKMAN: Objection. That has nothing to do with the case. I object on the ground that I have been active for labor organizations in this City for the last few months, for special labor organizations.~~

~~MR. CONTENT: This is for a definite purpose. I object to his interruption in a very important part of my examination.~~

~~MR. BERKMAN: I am giving the reason for my objection.~~

~~MR. CONTENT: He may put his objection on legal grounds. I have some rights. V~~

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MR. BERKMAN: Objection on legal grounds, yes.

MR. CONTENT: Not a special ground.

MR. BERKMAN: I have deposited funds in my name there on behalf of certain labor organizations.

MR. CONTENT: This is the same explanation. I object.

THE COURT: I overrule the objection, you may make your statement.

MR. BERKMAN: The funds deposited under my name at this particular bank, -- I don't think I have had any in any other bank, -- were funds of The Blast, and money collected for a certain legal fight in behalf of which I am in New York at the present time, for which I visited New York.

THE COURT: The question is, --

MR. CONTENT: This is a legal objection, as I understand it, and on what ground is the objection? I have some rights.

THE COURT: He wanted to make a statement. This is not an objection, exactly. He has made the statement. Now the witness can answer. Now read the question.

~~MR. CONTENT: I would rather refrain my question.~~

Q I ask you now whether that is the personal account of Mr. Berkman, and what funds are deposited in that account?

~~MR. BERKMAN: I object.~~

~~THE COURT: The witness may answer.~~

~~Q That is the personal account of Mr. Berkman?~~

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A A personal account, and different funds of The Blast, funds for different labor defense funds, --

Q And what else?

A And funds I turned over to the No-Conscription League fund.

Q Is that about all -- The Blast, and these labor funds, and these personal accounts, and the No-Conscription League?

A Yes, so far as I can recall them.

Q I show you a stub of check No. 58, May 7, Graphic Press, whose handwriting is the stub in?

A Alexander Berkman's.

~~MR. BERKMAN: May I identify all of them at once?~~

~~MR. CONTENT: I prefer to do it this way.~~

~~THE COURT: Just a minute. He has a right to ask the witness now if he wishes, and after she has answered, he cannot introduce the documents in evidence until he has shown it to you, but, he, first, in court procedure, has the right to ask the questions that he is now asking.~~

~~Now proceed.~~

Q The stub check No. 59, May 9th, in whose handwriting is that?

A Mr. Berkman's.

Q And No. 60, B. L. Michael?

A The same.

MR. CONTENT: That is May 11, 1917.

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Q And 61, May 12, is that Mr. Berkman's also?

A Yes.

MR. CONTENT: That is Sachs & Steinfeld.

Q Then I show you 62, 63, and 64, stubs addressed to three different newspapers. Are those in Mr. Berkman's handwriting?

A Yes.

165 Q And 65 and 66, two checks to Die Wahrheit, is that in Mr. Berkman's handwriting?

A I would say they were.

Q And No. 67, May 15, is that your handwriting, to The Call?

A That is my handwriting.

Q And No. 68, is that Mr. Berkman's?

A I would say it was.

Q And 69 and 70, are those yours?

A Those are mine.

Q 71, is that yours?

A That is mine.

Q No. 72, is that Mr. Berkman's, to the Graphic Press?

A Yes.

Q May 21, 1917?

A Yes.

Q 72, Harlem Park Casino, May 18, is that your handwriting?

A Yes.

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Q No. 74, May 21, Howard Minor, is that your handwriting?

A Yes.

Q And the same as to No. 75, to The Call?

A Yes.

Q And 76?

A Yes, those are for ads. for the meetings.

Q 77, salary, janitor?

A My handwriting.

Q 79, cash, is that Alexander Berkman's?

A I should say it was Mr. Berkman.

Q 78, Hunt's Point Palace, the 28th of May, 1915, is that your handwriting, \$25?

A Yes.

Q And No. 80, the Graphic Press, May 31, is that yours?

A Yes.

Q And No. 81, another one to the Graphic Press, is that your handwriting?

A Yes.

Q And 82, 83 and 84, are those in your handwriting?

A Yes.

MR. CONTENT: All dated June 2nd.

Q And 85, 86 and 87, are your handwriting?

A Yes.

Q And 88, 89 and 90, are those your handwriting?

A Yes, mine.

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Q And Nos. 91, 92 and 93, all yours?

A All mine.

Q And is No. 94 yours?

A Yes.

Q Mrs. E. J. Ballantine?

A Yes.

Q And 95, is that Mr. Berkman's, Alexander Berkman?

A Yes.

Q 96, is to the Graphic Press, June 11, 1917?

A That is mine.

Q So that all of those which I have shown you are either in your handwriting or that of Mr. Berkman?

A Yes.

MR. CONTENT: I offer this check stub book in evidence.

Q While Mr. Berkman is looking at that, and examining it, I want to ask you whether you sometimes signed Miss Goldman's name as attorney in fact on her account in the Produce Exchange Bank?

A yes, I have an authority to sign Miss Goldman's name.

~~Q You have an authority to sign her name?~~

~~A Yes.~~

Q Does she have an account of her own in the same branch?

A Yes.

Q Do Mother Earth funds go into Miss Goldman's name?

A Mother Earth funds? I can't say, I am not sure whether

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she has a Mother Earth account and an Emma Goldman account or not.

Q But, the No-Conscription funds, all went into Mr. Berkman's?

A Yes.

Q And not into Miss Goldman's account?

A Not to my knowledge.

Q You were the financial secretary?

A Yes.

Q And when subscriptions were received through the mails, after they came into your hands, what did you do with them?

A You mean subscriptions for what?

Q For the No Conscription League. I am not inquiring into the regular subscriptions to your two magazines. I don't mean that, but subscriptions to this work of the No-Conscription League?

A Yes, they came to me.

Q And if they were checks, you put them in the Berkman account, in the Produce Exchange Bank?

A Why, we put them in the little No-Conscription League account book which you have there on the table.

Q That is this book (indicating)?

A Yes, but the deposit was put in the name of Alexander Berkman.

Q And is this your account book of the receipts of the No-

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Conscription League?

A Of the No Conscription League?

Q Of the No Conscription League?

A Yes.

Q I don't mean for the papers.

A Yes.

Q And was this kept by you from May 11th on?

A Kept by me.

MR. CONTENT: I offer this in evidence.

(Same examined by defendant Berkman).

MR. BERKMAN: I cannot understand what object he has for putting this book, this check book in ~~an~~ exhibit. We would object to putting in amounts, or the record of any amounts prior to May 18.

MR. CONTENT: Some of this printing was contracted for before May 18th.

MR. BERKMAN: Prior to May 18th? The indictment charges something done since May 18th.

MR. CONTENT: May I just look at that? I may not offer it for that purpose. (Examining book). All right, I only offer it for those stubs that relate to check transactions since May 18th.

MR. BERKMAN: Since May 18th.

THE COURT: So that that don't take in the one on the evening of May 18th, for that meeting?

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THE WITNESS: Yes, there was one on that day.

THE COURT: Was that included in the offer -- it should be.

17 [MR. CONTENT: That is included. The first check on May 18th is No. 69, and I will not offer anything before that date.

THE COURT: Very well. 69 and succeeding checks are received.

MR. CONTENT: 69 to 96, both inclusive.

THE COURT: And the Clerk may just put a little rubber hand at that point, and the preceding checks.

MR. CONTENT: I will fix that.

THE COURT: Very well.

(Check book marked Government's Exhibit No. 18 in evidence).

~~MR. CONTENT: I will not read them the checks at this time. I only want that for the purpose of referring to any particular check later.~~

~~THE COURT: Yes.~~

MR. CONTENT: Now I offer the receipt book, the receipts of the No-Conscription League in evidence.

MR. BERKMAN: Also since May 18th?

MR. CONTENT: Now, in this case, I think I have a right to go back of that time.

THE COURT: He has no objection.

MR. BERKMAN: We have no objection.

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MR. CONTENT: I offer this in evidence then.

(marked Government's Exhibit No. 19 in evidence).

~~MR. CONTENT: You may cross-examine the witness, Mr.~~

~~Berkman. I am finished.~~

CROSS EXAMINATION BY MR. BERKMAN:

Q Miss Fitzgerald, what is the character of your work on The Blast?

~~A For the Blast?~~

~~Q Yes, what is the character of your work for the Blast?~~

A Well, I helped with typing the articles, I helped with the proofreading, and helped with making up the dummy pages, to send to the printer, and also in the subscription lists, to see that all the names were entered properly, and so on.

Q In other words, you were a co-worker, what we know as a co-worker on the paper.

A Yes.

Q You were co-operating in the work?

A Yes.

Q When was The Blast first established?

A The first issue of The Blast appeared in San Francisco California, on January 15, 1916.

Q Did it have any connection with Mother Earth, or was it an independent paper?

A The Blast has always been an absolutely independent paper from Mother Earth.

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Q An absolutely independent paper?

A Yes.

Q Can you tell us how the Blast happened to be established, what year do you say it was?

A In 1916.

Q What month?

A January 15, 1916.

Q Was that the first issue?

A That was the first issue of The Blast.

~~Q January 15, 1916?~~

~~A Yes.~~

Q Where was I at the time?

A You were in San Francisco, California, at the time.

Q When had I left New York, if you know?

A You left New York in November, 1915.

Q Up to that time, what was the position that I held on Mother Earth?

A Why, you were one of the editors.

Q Was I the publisher of Mother Earth?

A No.

Q Was I at any time the publisher of Mother Earth?

A Not to my knowledge.

Q I was one of the editors?

A You were one of the editors.

Q And when did I give up my position as editor of Mother

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Earth, approximately?

A It was in November, 1915, and you started a lecture tour across the country.

Q You mean about two years ago, approximately?

A Yes.

Q And since then, have I had any connection with Mother Earth, as one of the editors?

A Not at all, no.

Q And when I left New York in 1914, November --

A 1915.

Q Did I have any idea of starting a paper in San Francisco?

THE COURT: you said in 1914, you meant 1915?

THE WITNESS: We left in November, 1915.

MR. BERKMAN: I beg your pardon, yes.

Q Did I have any idea of starting a paper in California, when I left New York, what was the purpose for my leaving New York?

A You left New York to engage in lectures, I arranged these lectures, from New York to San Francisco, a series of lectures in different cities.

Q I am trying to refresh your memory. You mean you left New York with me, or did you go ahead of me a few weeks, --

A I left New York about ten days or two weeks ahead of you, for Pittsburgh.

Q What was your purpose in going there?

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A I arranged your lectures.

Q That is, the lecture at Pittsburgh, and at other cities?

A Cleveland, Detroit, Chicago, Denver, Los Angeles, San Francisco, Seattle, Berkeley, Tacoma, --

Q What was the purpose of our leaving New York?

A First arranging lectures, and afterwards -- what was the purpose, -- I don't mean the object.

THE COURT: You may suggest the question, to refresh her memory.

Q Wasn't the object lectures?

A The object was lectures.

~~MR. CONTENT: I don't think this is proper cross-examination. That was long before May 18th, so I do not see the particular object.~~

~~THE COURT: I will allow it.~~

Q Was the object lectures, or the publication of a paper, that is what I want to point out, -- what was the object of leaving New York to speak in Pittsburgh and other cities?

A To establish a paper on the Coast, and give these lectures --

Q No, wait a moment. What was the object in November, 1915, did we have any idea of a newspaper in California when we first left New York?

A No, not to my knowledge.

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Q ~~What was the object?~~

THE COURT: ~~She said your object was to give a series of lectures.~~

Q ~~That is a lecture tour, in other words. Who was the manager of the tour?~~

A ~~I was.~~

Q ~~And therefore you are familiar with the character and details of the work?~~

A ~~I am.~~

Q ~~How did I happen to establish the paper, --~~

MR. CONTENT: ~~The Blast.~~

MR. BERKMAN: ~~I am speaking of the Blast.~~

Q ~~When I reached -- who reached San Francisco first, you or I?~~

A ~~I did.~~

Q ~~For the purpose of arranging --~~

A ~~Arranging the lectures before you arrived.~~ X

Q ~~Had I ever been in San Francisco before?~~

A ~~No, not to my knowledge you had not.~~

Q ~~And therefore you reached San Francisco before me for the purpose of arranging the lectures?~~

A ~~That is correct.~~

Q ~~Hiring a hall, getting out printed matter, etc., and afterwards, after we were through with the lecture at San Francisco, did we go to Portland, and Seattle, or at least did the~~

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speaker go to Portland and Seattle?

A You did, yes.

Q Do you know whether I returned to New York during that trip?

A During that trip you returned to New York the next Summer.

Q What was the purpose? Had it any connection with some labor organization cases?

A It was in reference to raising funds for a labor organization.

Q In what city?

A You left from Los Angeles.

Q And I returned then to New York in connection with labor cases in San Francisco?

A No.

Q Or, Los Angeles rather, I beg your pardon.

A Yes.

Q And that was in what year?

THE COURT: She left in November, 1915, so that it was the next Summer, wasn't it?

THE WITNESS: It was the next Summer, the Summer of 1916.

THE COURT: You can refresh your memory, if you think it was at some other time.

MR. CONTENT: I will concede it was the time he said it was.

MR. BERKMAN: Well;, I think we want to get the dates.

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It was something very important on my part with regard to a case of labor that I came to New York from the Coast, in a labor case, from Los Angeles, and only after I went back to California did I start The Blast.

THE COURT: What is your recollection of the date?

MR. BERKMAN: My recollection is that we left New York in 1914, not 1915.

MR. CONTENT: What does Mr. Berkman want to bring out by this witness in this part of it? I will concede it.

MR. BERKMAN: The point, for the present, is that the Blast was established after I had been lecturing in the West for about a year or a year and a half, and that it was the result of the work I had done on the Coast.

THE COURT: Very good.

MR. CONTENT: All right.

MR. BERKMAN: And that it had absolutely no connection with Mother Earth.

MR. CONTENT: Very well, that is conceded. The Government concedes that.

THE COURT: Yes.

MR. CONTENT: At that time.

MR. BERKMAN: Yes, at that time.

Q Now, the Blast began in San Francisco on what date?

A January 15, 1916.

Q How long did it continue there?

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A Continued a little over a year, until May 1 of 1917.

Q Who was the editor of The Blast in San Francisco?

A Alexander Berkman.

Q And then when I had occasion to come East, who remained there as the editor?

A I did.

Q What was the reason for my coming East?

A In the interest of the labor case that is now being fought out on the Coast, San Francisco.

Q In the interest of another labor case, the first was Los Angeles, and the other one San Francisco?

A Yes, the Mooney case.

Q Did I come to New York permanently or temporarily?

A Temporarily.

Q On their behalf, that case from San Francisco?

A Yes, that case in San Francisco.

Q And all the time I was in New York, what was I busy with?

A You were busy gathering funds, getting publicity for this labor case in San Francisco.

~~Q For this labor case in San Francisco?~~

~~A Yes.~~

Q Was I busy with it all the time I was in New York?

A As far as I know, you were.

Q Was it my intention to return to continue the publication, or rather continue to be one of the editors of the Blast

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in San Francisco?

A It was.

Q And when I found I would have to be here in New York a little longer than expected, did I ask you to bring The Blast to New York, permanently or temporarily?

A Temporarily.

Q It was our intention to publish The Blast just a few issues in New York?

A That was my understanding.

Q Was it your understanding that I intended, or the object was that we were going to go back to San Francisco and continue the publication of the paper there?

A Yes.

Q Do you know, or do you remember that about two ^{months} ~~years~~ ago, or so, I had started on my way back to San Francisco?

A Yes.

Q To continue the publication of The Blast there?

A Yes, to continue the publication of the Blast there.

Q How far did I go?

A Why, as far as Chicago.

Q Went to Chicago?

A Yes.

Q And when I was in Chicago, did I receive a wire from New York, asking me to return?

A To continue your work for this San Francisco case.

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Q Do you remember that since my return from Chicago, there was organized a large ball in behalf of our San Francisco friends -- is that right?

A Yes, I was not here, but I know there was such a thing.

Q But you have seen the publicity matter?

A Yes.

Q And you know that was the reason I came back from Chicago to New York?

A Yes, that is my understanding.

Q And that was the reason I did not continue on my way to San Francisco?

A That is correct.

Q Now, after my return from Chicago to New York, to take charge of this affair in behalf of the financial interests of the San Francisco friends, what was I busy with, remaining in New York for the time being?

A Busy with this ball, getting advertisements, and speaking to unions.

Q Addressing labor organizations?

A Yes. I was not here, but that is my knowledge of your work.

Q Well, you know it from The Blast?

A Yes.

Q And from the publication of all that was going on?

A Yes.

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Q Were any copies of The Blast issued in New York?

A Two issues.

Q How many?

A Two issues, May and June.

Q How many issues, I mean?

A Just the two issues, May and June.

MR. CONTENT: May and June.

THE COURT: 1917?

MR. BERKMAN: 1917.

Q And was it your understanding that the Blast would continue to be issued here or would be continued in San Francisco where it belonged?

A My understanding was that a few issues would be brought out here in New York, until you had finished your work for the San Francisco prisoners, and then it would be returned, would go back to San Francisco.

Q In other words, The Blast is published in New York just the two issues, and that temporarily?

A Yes, that's right.

Q With the idea of returning to San Francisco?

A Yes.

Q Please tell us the character of the Mother Earth office, or The Blast office, -- are they independent offices?

A The Blast and Mother Earth have always been independent, they are not connected in any way.

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Q Independent officers?

A Yes.

Q They happened to be in the same building?

A They are in the same building.

Q Can you give us some explanation, perhaps, for the reason that The Blast office is in the same building, -- do you know where my office was in behalf of the San Francisco cases?

A Yes, ²⁰60 East 125th street.

Q How many rooms are there in the Mother Earth offices?

A Two rooms.

Q How many rooms are occupied with Mother Earth work?

A Two rooms.

Q Were both rooms occupied with the Mother Earth work, -- I am asking about the front room, the office was the back room?

A The front room of Mother Earth was the office, and you were using --

Q What was I using at the time for my San Francisco work?

A You were using the back room of Mother Earth's office for your San Francisco work.

Q And the back room of the Mother Earth office was therefore originally used for the San Francisco work?

A Yes.

Q And then do you remember, when we needed an office for the few issues of the Blast, do you remember my calling your attention to the fact that it would be difficult for me to

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transfer my San Francisco stuff, publications and pamphlets, and that therefore it would be well to try to have the office upstairs.

A There was such conversation, yes.

Q And therefore we rented the office upstairs because I had had another little office in the same building for several months?

A That is correct.

Q Do a good many people come there to the office of The Blast?

A A good many people, yes.

Q People of various kinds and characters?

A The old, the young, detectives, and newspaper men and—

Q Do detectives come up there?

A Yes.

Q And newspaper men?

A Yes.

Q And other business and professional men?

A Yes, all kinds of people.

Q Workingmen, and all kinds of people?

A Yes, and professional people.

Q And the same pamphlets, or the same publications, and the same circulars are handed to all?

A Yes, to all.

Q Handed to them gratis?

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A Yes, to all.

Q The same publications are freely handed to all?

A Certainly.

Q Even if a detective should happen, for instance, to come up to The Blast office, and we would know he was a detective, would he get a copy of the circulars?

A Yes, if he wanted it or asked for it, and maybe, if he didn't have the money, we would give it to him.

Q Therefore it makes no difference who comes up?

A No.

Q It was given out free to whoever asked for it?

A Yes, that is, our circular matter was given out free. We had some books and pamphlets we sold.

Q Oh, yes, some thing were given away free and some were sold?

A Yes.

Q The more valuable books, for instance, the valuable books were sold?

A Yes.

Q And circulars, manifestoes, given away free?

A Yes.

Q How about the Blast, the District Attorney wants to know?

A How do you mean?

Q Was The Blast always sold, or always given away free?

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A Well, it was done both? -- it was sold and also given away freely.

Q The Blast was therefore sometimes sold, and sometimes given away free?

A Yes.

Q If a person would come and state they wanted a copy of the Blast, and didn't want to pay any ²⁰ money, or couldn't afford it, --

A Why, a copy would be given to him.

Q Copies were given free?

A Yes.

Q And those people who came up to the office of The Blast, were they all known to us?

A No, they were not all known to us.

Q Some were known and others were not known?

A Some were known and others were not known.

~~Q Did any people come up to ask for advice with regard to registration?~~

~~A Many people.~~

~~MR. CONTENT: There is no testimony about this in the direct examination, therefore this is not proper cross-examination.~~

~~MR. BERKMAN: Well, this is a State witness.~~

~~MR. CONTENT: No, just listen. Your cross-examination, if you will let me explain, is limited to what I bring out.~~

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~~on the direct examination, but you can arrange to call her as your own witness, and I am compelled to object merely on the ground that it is not proper cross-examination.~~

~~THE COURT: Yes, that is right, you can recall her after this, and you can examine her in any way you please, but this is cross-examination on what the Government brought out, and on new matter you may produce her as your own witness.~~

~~MR. CONTENT: Your Honor will understand we don't want to be bound by a hostile witness, your Honor will understand that.~~

~~THE COURT: Oh, certainly not.~~

Q The Harlem River Casino meeting, that was mentioned here, on what date did that take place?

A On the 18th of May.

THE COURT: In the evening?

THE WITNESS: In the evening of the 18th of May.

Q 1917?

A 1917.

Q The meeting was arranged several days previously?

A The meeting was arranged several days previous to the 18th of May.

Q Was this before or after the Conscription Bill became a law?

MR. CONTENT: What, the arrangement, or the meeting?

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MR. BERKMAN: The arrangement.

A The arrangement was made before the Conscription Bill had been passed.

Q Before it was passed?

A Why, certainly. I understand the Conscription Bill was passed on the 18th, and the arrangements for the meeting, of course, would have to take place before the 18th.

MR. BERKMAN: That is just what I wanted to bring out.

Q Did the meeting itself take place before the Conscription Bill was passed, so far as you know?

A So far as I know, the meeting took place before the bill was passed. We knew nothing about it until after the meeting was closed.

Q When you were at that meeting, did you know anything about the bill being passed?

A I did not.

~~Q Do you know whether I knew anything about it?~~

~~MR. CONTENT: How does she know?~~

~~THE COURT: She can't answer that very well.~~

Q Do you remember that the first news of the Conscription Bill becoming a law did not come out either until very late in the evening on the 18th, or the next morning the papers -- when did you first see it in the papers about the Conscription Bill becoming a law?

~~MR. CONTENT: That is different.~~

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~~THE COURT: That is a proper question.~~
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A As I remember it, / was after the close of the meeting on May 18th, after the meeting had closed, and we got a paper, and there was some conversation among us about the bill being passed, but we had no knowledge of it then. That is as I remember the incident.

Q And you were busy about the speeches, and busy preparing for this meeting on May 18th at the Harlem River Casino, all that afternoon and evening, being up at the hall, and do you remember that when the speakers and a few friends left that hall about eleven o'clock that night, or late in the evening, that was the first time we heard about the bill becoming a law?

A Yes.

~~MR. CONTENT: She explained that already. She explained that very fully. Mr. Berkman's question is a little bit leading.~~

~~THE COURT: Yes, she said that was the first time she knew anything about it.~~

Q Well, so far as you remember the speeches, in the Harlem River Casino, did they refer to the Conscription Bill or the Conscription Law?

A Well, I did not hear the speeches at the Casino. I was guarding the stage door, to keep the soldiers and sailors off the stage. I can't tell you about the speeches.

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Q You were at the stage entrance?

A Yes.

~~Q Do you remember sending a note to me while I was on the stage before I spoke?~~

~~A Yes, sent a note, I sent a couple of notes.~~

~~Q What was the note about?~~

~~A Some soldiers wanted to have a chance, --~~

~~MR. CONTENT: Well, this is not proper cross-examination.~~

~~MR. BERKMAN: All right.~~

~~Q Do you remember my physical condition while I was at that meeting?~~

~~MR. CONTENT: Objected to as improper cross-examination.~~

~~MR. BERKMAN: All right.~~

~~MR. CONTENT: He is not charged with having done any wild act, that would have required that --~~

~~MR. BERKMAN: That was not the purpose of my question.~~

~~THE COURT: I cannot see its materiality at all.~~

~~MR. BERKMAN: All right.~~

Q May I ask whether the mass meeting at the Casino was a peaceful meeting, except for the disturbance of the men in uniform?

A It was a peaceful meeting.

Q So far as the audience was concerned?

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A So far as the audience was concerned, it was an enthusiastic and peaceful meeting. The disturbance was caused by the sailors and soldiers.

~~Q When the soldiers and sailors sent up word to the speaker --~~

~~MR. CONTENT: That has been ruled on.~~

~~THE COURT: Let him ask the question.~~

~~Q When Miss Fitzgerald sent up word to me on the stage that some of the soldiers demanded the floor, what reply did I send back?~~

A You said they could have the floor, because you believed in free speech. That was the only way you could keep them quiet, by telling them that.

~~Q I said they could have the floor, because I believe in free speech?~~

~~A Yes.~~

Q Was the meeting on May 18th called with reference to conscription, or with regard to registration?

A It was called to discuss the conscription bill that was before Congress.

Q What name did the mass meeting have -- how did you refer to it -- how was it called in the handbill?

A I don't remember, I would have to see the handbill. I think it was called the protest meeting, no-conscription protest meeting, as I remember.

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MR. BERKMAN: The No-Conscription Protest Meeting?

MR. CONTENT: That is your best recollection.

THE WITNESS: Yes.

Q Do you remember whether it was at any time called the No-Registration Meeting?

A No.

MR. CONTENT: We don't claim it was. There was no evidence it was.

THE WITNESS: Oh, no.

Q The meeting was just called the No-Conscription Meeting?

A Yes, I could not be exact about its terms, its wording, without seeing the handbill, but it was a protest against the conscription bill, I know that.

MR. CONTENT: There was no claim on the part of the Government that it was called the No-Registration Meeting. There was no evidence as to that.

~~Q You don't remember the handbill for that mass meeting?~~

~~A I certainly do.~~

~~Q What was the name of that handbill, the exact wording of that handbill?~~

~~A June 18th was the date.~~

~~THE COURT: May.~~

~~THE WITNESS: Oh, May 18th.~~

~~Q I am not asking about the date. What was the heading of the handbill?~~

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~~MR. CONTENT: She said she didn't remember.~~

MR. BERKMAN: Try to remember.

A Why, No Conscription Protest Meeting, I am telling you.

MR. CONTENT: She said that was her best recollection.

Q Well, are you absolutely sure?

A I am sure it was a No Protest Meeting, but I cannot tell you word for word what was in the handbill unless I saw it.

Q But, was the word, "registration" in that handbill?

A The word, "registration" never appeared in any of our handbills.

MR. CONTENT: Are you sure of that?

Q On the handbills, did the word "registration" appear in any of our handbills, announcing the mass meeting in the Casino?

A No.

THE COURT: The question is in reference to these handbills announcing the mass meeting.

MR. CONTENT: May 18th.

THE WITNESS: May 18th had nothing to do with registration.

Q That was an out and out No-Conscription Mass Meeting?

A Yes.

Q And what was the heading of the handbill?

MR. CONTENT: She has said she could not remember.

That was what she said.

A As I remember that, it was No-Conscription Protest Meet-

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ing, May 18th, that is my best recollection.

THE COURT: He is cross-examining, and he is doing all right, Mr. Content. Her answer can stand.

Q Then that was the heading, No-Conscription Protest Meeting?

A Yes.

~~THE COURT: I think I have a little matter to attend to now.~~

~~MR. CONTENT: I would like to ask one question. Have you finished your cross-examination?~~

~~MR. BERKMAN: No.~~

~~MR. CONTENT: I have one question on redirect.~~

(addressing the jury)
THE COURT: You can ask it after lunch. We will now suspend until five after two. Before you go, let me say this to you, that I know that in newspaper accounts there frequently something slips in that did not take place in the courtroom. Of course, I know that such accounts will not influence you; but at the same time, I think it is always better when you are engaged in a trial, not to read the accounts of the trial at all. The other day, in some of the papers, there was a reference to a matter which, the Court and the District Attorney had not given any information about, so far as the publication was concerned,-- that might not in any manner, shape nor form come into the case, but I have always found it a very

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good rule, not to read the accounts of the trial because we in the courtroom know exactly what took place.

It is not that they would influence us at all, but it is upon the theory and feeling that in a criminal trial, I have the same desire as every other Judge, and that is that the jury shall confine their attention solely to the evidence produced in the courtroom.

~~We will take a recess now until five minutes after two o'clock.~~

(Recess until 2:05 P.M.)

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A f t e r n o o n S e s s i o n .

(2:05 P.M.)

M A R Y E L E A N O R F I T Z G E R A L D , resumed.

CROSS EXAMINATION CONTINUED BY MR. BERKMAN:

Q Miss Fitzgerald, do you remember the meeting on May 9?

A Yes.

Q An informal meeting?

A An informal gathering, to plan for a protest meeting against the conscription bill, and at that meeting it was decided, at that preliminary meeting, to hold a big meeting on May 18th.

Q Was it anything unusual to hold such informal gatherings at the offices?

A No, not at all.

Q Do you remember any little gathering on May 10th?

A Yes, there was a little gathering.

Q Where was that held?

A That was held, that little gathering, in the office of Mother Earth.

Q What was the purpose of that gathering?

A It was a little farewell meeting or gathering of friends of people that were going to Russia the following Saturday and on the following Monday.

Q It was a frequent plan to have these gatherings and socials?

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A 1.

Q At the various offices?

A Yes.

Q Do you remember the meeting of May 16?

A Yes, on May 16 there was another little meeting to prepare for the large meeting of May 18.

Q What were the preparations made?

A Well, arranging committees for collections, and the ushers, and the sale of literature, etc.

Q Was the question of conscription discussed at that meeting?

A Not in the evening.

Q On May 16?

A On May 16, yes, I think it was.

Q Was the question of registration discussed at that meeting?

A No, the question of registration was not discussed at the meeting of May 16.

Q What then was the purpose of that meeting?

A The purpose of the May 16 meeting was to plan our committees for taking care of the May 18th meeting.

Q The mass meeting?

A The mass meeting of May 18th, at the Harlem River Casino.

Q Do you remember the committee meeting of May 23rd?

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A There was a committee meeting, a small gathering, similar to the one on the 16th, that was held on the 23rd, yes.

Q Where was that meeting called for?

A The meeting of the 23rd was originally called for to be held at the Mother Earth office at 20 East 125th street.

Q Where was it held, -- was it held there?

A No, it was not.

Q Where was it held?

A It was held in the apartment of Miss Goldman.

Q What was the reason for the change in the office to Miss Goldman's apartment?

A On account of the injury to your foot.

Q Was Miss Goldman present at that meeting?

A She was not.

Q Why was she not present?

A She was lecturing in Springfield, Massachusetts.

Q Was there any word received from Miss Goldman from Springfield for that meeting?

A Yes, ^{my} I received a letter from Miss Goldman, and in that letter she--

MR. CONTENT: I object.

Q One moment, no, that is enough. You received a letter?

A Yes.

Q What became of that letter? So far as you know, where is that letter now?

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A The District Attorney has it, or the Marshal.

MR. BERKMAN: May I ask the District Attorney to produce the letter which was sent by Miss Goldman from Springfield to that meeting, and confiscated by the District Attorney.

MR. CONTENT: Mr. Berkman, you know perfectly well that your ex-attorney, who is still somewhat your attorney, Mr. Weinberger, asked me this morning for that letter, and I told him it was not necessary to serve a notice to produce, that when Miss Fitzgerald was finished that the Government, or the Special Agent, would look through everything to find it. You know perfectly well I have not that letter in my pocket. There is a mass of correspondence I have not touched, and this is not proper cross-examination, and has nothing to do with it.

THE COURT: As soon as she has finished, she make look through those (indicating).

MR. CONTENT: They are not in the court, they are in the marshal's room, and I told Mr. Weinberger, --

MR. BERKMAN: I don't know everything you told Mr. Weinberger.

MR. CONTENT: No, naturally. It is convenient to have an attorney sometimes, and sometimes not.

THE COURT: As soon as she is off the stand, she can go with the man Mr. Content referred to, and go through.

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this series of documents that Mr. Content has referred to, and then she can be placed back on the stand at any time for the purpose of asking her any questions in regard to that matter.

MR. CONTENT: This is not proper cross-examination, anyhow, as to this.

THE COURT: I understand that.

MR. CONTENT: I told Mr. Weinberger that he should be furnished with that, that they have ample time before the defense puts in its case. We have nothing to hide.

MR. BERKMAN: I want to state that I have no time to talk with Mr. Weinberger today.

THE COURT: That is all right. You shall have the letter if it is in existence.

Q At that meeting, the committee meeting of May 23rd, that was to be held at the office, and was held at the apartment, because I could not leave, that No-Conscription meeting, was the question of registration discussed?

A It was.

Q What position did your League take with regard to registration?

MR. CONTENT: Objected to as not proper cross-examination.

THE COURT: Sustained.

MR. BERKMAN: May we ask what was the purpose of that committee meeting on May 23rd?

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MR. CONTENT: The meeting of May 23rd was not covered by the direct examination at all.

THE COURT: You may reserve that for the defense.

MR. BERKMAN: All right.

THE COURT: The general line is entirely proper, but in your mode of trying the case, it is a little out of order.

Q ~~The mass meeting that has been spoken of here on May 18th, at the Harlem River Casino, was that mass meeting a peaceful one?~~

MR. CONTENT: ~~That has been answered already.~~

THE COURT: ~~She said that. She said it was entirely peaceful, and she described the troubles with the soldiers and sailors, and that they were invited to make speeches.~~

Q How many issues of the Blast have been published in New York?

MR. CONTENT: That has already been answered, she said May and June.

THE COURT: May and June, 1917?

THE WITNESS: Two.

Q Where was the May issue published, what printers?

A The May issue was published by the Graphic Press.

Q The June issue?

A The June issue by the Gra^{ze}l Press.

Q Can you tell us the reason why the June issue was not

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published at the same place where the May issue was?

A The Graphic Press had a rush of work, and in order to get The Blast out by the first of the month, or the first of June, we had to give it to another printer.

Q And the ²Grazel Press is the same printer that prints the Mother Earth?

A Yes.

Q And that last number of The Blast, the June issue, was published there?

A The last issue of The Blast, the June issue, was published at the ²Grazel Press.

Q Were copies of The Blast given to anyone who would ask for them?

A Copies of the Blast given to anyone who asked for them and they were also sold, sent out through the mail and distributed around.

Q And the same about any circulars issued?

A Yes.

~~MR. BERKMAN: That is all.~~

~~MISS GOLDMAN: May I ask some questions?~~

~~THE COURT: Yes.~~

CROSS EXAMINATION BY MISS GOLDMAN:

Q Have you been reading Mother Earth for some time?

A I have been reading Mother Earth for about nine years, Miss Goldman.

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Q As a subscriber to Mother Earth, have you any knowledge when approximately the magazine was²³ mailed to the subscribers each month?

A Yes, about the first of each month.

Q Do you think that the June number was -- that any exception was made with the June number regarding the date, the first of the month or the 2nd?

A Not at all.

Q The same as the other magazines?

A Yes.

Q You have not been in New York very long, but nevertheless, I want to ask you whether you have any knowledge how long Mother Earth was published by the Gra²zel Press, approximately?

A I should say about, from my knowledge of your work, about five or six years.

Q Will you be good enough to tell whether there was at any time since Mr. Berkman left New York for California, at any time any connection whatever between The Blast and Mother Earth?

A None at all, none at all.

Q Can you state whether the nature of Mother Earth is distinct from The Blast?

A Well, Mother Earth, briefly, I am putting it in my own words, takes up more the educational and the economic, and

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the philosophy of anarchism and modern thought, while The Blast is purely a labor paper.

Q And as a subscriber to Mother Earth, of course, may I ask you, Mother Earth is a monthly magazine?

A Mother Earth is a monthly magazine.

Q And The Blast is what?

A The Blast started as a weekly paper, then on account of lack of funds, it was changed to twice a month, and now it is once a month.

Q Will you be good enough to state why you were asked occasionally to answer mail addressed to me or to Mother Earth?

A Yes, your regular stenographer was ill, and I was on vacation, and as a friend to you, I helped you with some of your correspondence and copying your lectures.

Q Do you remember from previous times, when you were in New York, before you left for California, whether any changes were made during the Summer, regarding the stenographers in the office?

A Yes, I know that. When you were away on your lecture trips, the work of the office was lighter, and so you dispensed with your regular stenographer.

Q And engaged people to help?

A Yes.

Q How were they engaged?

A Well, they volunteered their services.

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Q I understand. But they were not on full time?

A No, not on full time.

Q Then, as occasionally letters had to be answered, in a hurry, is it not true that you were good enough to volunteer to answer them?

A That is the truth of the situation.

Q Now, it was brought out in the testimony by the prosecution, and you, as a State witness, stated truthfully, that you received lists of Mother Earth, that you took the Mother Earth list, and other lists, that you found in the Mother Earth office?

A Yes.

Q For the purpose of mailing the No-Conscription literature?

A Yes.

Q May I ask you whether that was an exceptional thing in the custom of Mother Earth?

A Not at all.

Q Or whether it is not a custom with us that if anybody needs to address people for labor purposes, that they are welcome to the lists of Mother Earth?

A Yes, that is true.

Q And would you remember that among the lists that you received, -- which seemed somewhat to puzzle the District Attorney -- that there was also a list known as the Birth Con-

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trol list?

A Yes.

Q Did you not get a birth control list?

A I did.

Q I wonder if you remember, as far as you can, how the Birth Control list happened to come into the Mother Earth office? Have you any recollection whether, or how -- I mean how did Mother Earth -- how did the Birth Control list happen to be among our lists?

A People sent in their names to you who were interested in the subject of Birth Control, and a list was compiled of those names, as I understand it.

Q Were these lists used in the Birth Control campaign? Was that given out definitely, whether the list don't date back to that time?

A No, I can't tell you that.

~~Q Now, you identified the contract with the Telephone Company, dated back, I believe, in 1914, wasn't it?~~

~~MR. CONTENT: Yes.~~

~~Q (continuing) And the signature of Mr. Berkman and Miss Goldman was identified -- you identified them?~~

~~A Yes, I identified your signature.~~

~~MR. CONTENT: Only your signature. The other one was in 1917.~~

~~MISS GOLDMAN: I see, thank you.~~

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Q I think you identified your signature on my checks?

A No.

MISS GOLDMAN: Was that brought out?

MR. CONTENT: No, I asked if she signed as attorney in fact, and she said she had that power.

Q I would like it, if you have any recollection at all, to tell the Court, and the gentlemen of the jury, approximately when that attorney was given to you, when I gave you a power of attorney to sign my checks, -- if you have any recollection.

A I think it was the 14th day of May.

THE COURT: This year?

THE WITNESS: This year.

Q Are you sure it was May?

A I meant June. I meant the 14th day of June.

Q Then, up to that time, you never had power of attorney to sign my checks?

A No.

Q Or Mother Earth checks?

A No, up to that time I never had any power to sign your name.

Q And there was brought out in testimony regarding the meeting of the 18th of May, -- now have you any recollection -- it was not really brought out, and I think in justice to the Court and to the gentlemen of the jury it should be brought out a little clearer as to the time when the May 18th meeting in

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the Harlem River Casino took place, and whether or not any one of us, or so far as that is concerned, ¹⁴ the people of New York, knew definitely that the Draft Law had already been signed by the President.

MR. CONTENT: She has answered that fully.

~~THE COURT: Just a moment. Marshal, bring some water for Miss Goldman.~~

BY THE COURT:

Q What time that evening did that meeting commence?

A Eight o'clock.

Q And I gathered from what you said before, that it kept up until about eleven, or something of that sort?

A About half past ten I think, or eleven.

Q And Miss Goldman and Mr. Berkman were speaking-- I mean they were in the hall all that time, weren't they?

A Yes, from about eight o'clock on.

Q And I suppose you did not go away right after the meeting closed?

A No, not immediately, no.

Q What time did you get on the street, about, approximately? I rather understood it was about eleven o'clock?

A Something like that, eleven or a few minutes after.

Q Did somebody buy some newspapers then?

A Yes, some one of the crowd bought a newspaper.

Q Now, up to that time, to your knowledge, in your pres-

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ence, had either of the defendants, while you were with them, seen any newspaper or announcement of the passage of the so-called selective draft bill?

A No, not until afterwards.

MISS GOLDMAN: Thank you.

BY MISS GOLDMAN:

Q May I also ask you here, how did Mr. Berkman and myself leave the hall, -- I mean how did we go to my apartment?

A You took a taxicab.

Q And why?

A On account of Mr. Berkman's foot --

~~MR. CONTENT: I object, why they took a taxicab.~~

~~MISS GOLDMAN: All right, I will change that.~~

~~I just wish to ask --~~

~~THE COURT: I have no objection to her asking why.~~

~~There may be some reason.~~

~~MISS GOLDMAN: No, I merely wanted to ask you to tell the Court and gentlemen of the jury first of all about Mr. Berkman.~~

Q Did Mr. Berkman have his injury on the 18th?

A He did.

MISS GOLDMAN: That is all that is necessary.

Q And whether it was not under very great difficulties that he came to the hall?

A It was.

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Q And also, I ask you, and I think it is apropos, how he left the hall?

A In a taxicab.

~~MISS GOLDMAN: And may I explain to your Honor,~~

~~Q I am asking you, if he went directly from the house, so that he could not have had a paper.~~

~~THE COURT: That is a perfectly proper question.~~

~~BY THE COURT:~~

~~Q Did you go with him in the taxicab?~~

~~A As I remember, I did not. I went with some of the others.~~

~~Q But you saw him depart in a taxi?~~

~~A Yes.~~

~~Q Right from the hall?~~

~~A Yes.~~

~~Q When did he hurt his leg?~~

~~A He hurt his leg about the 11th of May.~~

~~Q So that so far as you know, he went right from the hall in a taxi?~~

~~A I know he took a taxi directly to the office, or to the apartment, rather.~~

BY MISS GOLDMAN:

Q Miss Fitzgerald, would you please tell us whether to your knowledge Mother Earth, or I myself, as the publisher of Mother Earth, ever had any dealings with the Graphic press, so far as you know?

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A As far as I know, Mother Earth or yourself never had any dealings with the Graphic Press -- as far as I know.

Q As you were secretary and treasurer of the No-Conscription League, will you be good enough to tell whether you had any knowledge of No-Conscription money?

A I have knowledge of it.

Q Of course, I know that as secretary you have that knowledge, that is why I am asking the question.

MR. CONTENT: She answered. She said she had.

THE COURT: Of course. That is perfectly proper.

Finish the question.

Q (continuing) Whether Mother Earth had any relations with the No-Conscription money.

A It did not.

Q About the meeting of which you already answered, regarding the 23rd, the preliminary meeting to June 4, the meeting that took place in Hunt's Point Palace, the testimony was given here regarding a meeting at the Hunt's Point Palace on the 4th of June?

A Yes.

Q Now can you remember what the purpose of the meeting was to be on June 4th at the Hunt's Point Palace?

A Well, originally the purpose of the meeting for June 4 was a Mother's No-Conscription Meeting.

Q A Mothers' No-Conscription meeting?

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A Yes, and we had planned to have it in Madison Square Garden, and have mothers of sons of conscriptable age, speak at that meeting; and then there was a question came up that perhaps the men would think it was for women only, and so it was changed to a No-Conscription Protest Meeting. And then we were not allowed to have Madison Square, after it was promised to us, and I secured the Hunt's Point Palace myself, and made the deposits, and all.

Q Since the handbill was offered in evidence, announcing the Hunt's Point Palace Meeting, as far as your recollection goes, will you please say who were the speakers at that meeting?

A At the Hunt's Point Palace?

Q Yes.

A Leonard Abbott was Chairman, Leonora O'Reilly was one of the speakers; Louis Fraina, editor of a paper; Emma Goldman; Alexander Berkman; Peter Kane, a young man; and Mrs. Ballantyne.

Q Well, it is not important to have all of them, because it will come out in a few minutes anyway. Did all of them speak?

A No.

~~MISS GOLDMAN: Is it permissible to ask now, why all of them did not speak?~~

~~MR. CONTENT: There is no testimony on this, your Honor at all yet. We have not offered the minutes of the meeting. It seems to me that is a matter of defense.~~

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✓ ~~THE COURT: It is strictly, but as long as you have her here~~

~~MISS GOLDMAN: Yes, sir, all right, we don't care, it don't make any difference. I only wanted to be instructed.~~

~~THE COURT: Since you have her here, you can follow that up.~~

~~MISS GOLDMAN: Just as you say.~~ ✕

Q Can you tell us, please, why all the speakers did not speak that evening?

A The meeting was closed earlier on account of the rioting and trouble that was caused by the soldiers and sailors at that meeting.

Q Can you also remember, -- if it is permissible -- under the circumstances -- the circumstances of my speaking?

MISS GOLDMAN: If that is permissible, your Honor, or we can leave it until later.

MR. CONTENT: I don't object.

THE COURT: Well, do it now, it is just as easy as any other time.

25 [A Well, there was trouble caused by the soldiers and sailors in the gallery. There were a few objects thrown down on the stage, broken light bulbs, and so forth, and the meeting was beginning to be an incipient riot, -- if I may say it that way -- and Miss Goldman sprang to the platform and quieted the people. And even the press said if it had not been for Miss Goldman,

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there would have been a riot, and that all the trouble was caused by the soldiers and sailors, absolutely.

MISS GOLDMAN: I think that is all.

REDIRECT EXAMINATION BY MR. CONTENT:

Q Now, I omitted to ask just a couple of questions on the direct examination. There is no question that you did help Miss Goldman in her stenographic work?

A I helped, as I said to you before the Grand Jury, I helped her as a friend, I helped her out with her correspondence.

Q You were asked this question on the Grand Jury, weren't you "Q You are an associate editor of The Blast?" And you answered, "A And I help Miss Goldman in her stenographic work." You made that answer to that question?

A Not altogether, I did not.

Q Will you say I am reading this just as you answered that question? I asked you this question:

"You are an associate editor of The Blast?" and you answered,

"And I help Miss Goldman in her stenographic work."

So that you volunteered that, and I did not lead you?

A I don't remember answering in that way. I mean the truth of the matter is as I have stated; and I am not associated with her, except as a friend, and I help her in her work. That is so.

Q In other words, you were not employed by her as steno-

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grapher?

A No, sir.

Q But you are a stenographer by profession, a ~~woman~~ ^{shorthand} reporter?

A I am.

Q I think you said to the Grand Jury that you were also a bookkeeper?

A Yes, I am.

Q Will you be good enough to tell me how you ~~got~~ ^{were} paid for the work you did for the No-Conscription League or The Blast?

A I never was paid any work for the No-Conscription League, no salaries. No one has been paid for the work done in the No-Conscription League. It is all done voluntarily. If you can understand a group of people working together for a thing that they believe in, and that they love, who will do what is done from the joy of the work, that was true of the work I did for the No-Conscription League, and they paid me no salary.

Q And did not you receive, or did not you take something out of the receipts of the No-Conscription League?

A Why, for my expenses, carfare, and things like that.

Q Personal expenses?

A Something was spent, some money was spent, but not personally, except for expenses like carfare and telegrams, and

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things like that.

Q And do you participate in the profits of The Blast?

A Well, there are no profits to participate in, Mr. Content.

Q Didn't you say before the Grand Jury that there was a sort of a division of whatever money you had on hand?

A Well, I said, of course we have contributions from people interested in the work of The Blast. We also have paid subscriptions, our paper is a dollar a year, and we have paid subscriptions. We also have people who are so interested they send contributions, and I told you that when the rent was paid, the printers' bill was paid and if there was something to buy food, then we ate, that is what I said.

MR. CONTENT: I think that is what you said.

Q You say there was no connection between Mother Earth and The Blast?

A There was no connection between Mother Earth and The Blast. They are absolutely two separate and distinct publications.

~~X Q They were both working together, weren't they, for the objects of the No Conscription League, weren't they, the two publications, working in unison for the objects of the No Conscription League?~~

~~A Well, the Mother Earth --~~

~~MR. BERKMAN: I object.~~

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~~THE COURT: Objection sustained.~~

~~MR. BERKMAN: I objected to saying the papers worked together. Papers don't work. Maybe Miss Goldman worked.~~

~~THE COURT: That is a first-class objection.~~

~~Sustained.~~

~~Q Well, weren't the publishers, Miss Goldman, and Mr. Berkman, working together in behalf of the objects of the No Conscription League?~~

~~MR. BERKMAN: Objection.~~

~~THE COURT: No, I will sustain that.~~ X

Q Well, I call your attention to this, that the Mothers' No Conscription demonstration of June 4th -- wasn't that arranged through the channels of Mother Earth and The Blast?

~~MR. BERKMAN: Objection.~~

~~THE COURT: That question is proper.~~

~~MR. BERKMAN: Exception.~~ X

A No, it was not arranged through them.

Q I call your attention to this form letter:

"Realizing this, we appeal to you for moral and financial support to enable us to carry on an effective campaign by means of meetings. (A Mothers' No-Conscription Demonstration to take place on the eve of Registration Day, June 4th has already been arranged) Manifestoes, and above all, through the channels of Mother Earth and The Blast."

So that those two publications are referred to in the circular

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which I show you, Exhibit 4 for identification.

A Well, Mother Earth and The Blast each had other articles regarding militarism and conscription, etc., but they were separate and distinct publications, that had nothing to do with each other.

~~MR. CONTENT: I do not see but what it would appear from this Government's Exhibit 4 for identification, that the campaign was being carried on jointly through these two publications.~~

Q Is that correct?

~~MISS GOLDMAN: Is there time to say something now?~~

~~THE COURT: No, you may object.~~

~~MISS GOLDMAN: Well, we object.~~

~~MR. CONTENT: On what ground?~~

~~MISS GOLDMAN: On the ground that Mother Earth and the Blast, one being a semi-weekly publication, and the other being a monthly publication, reaching different kinds of people, naturally would advertise or use educational work regarding the attitude toward conscription.~~

~~MR. CONTENT: That is argument, not objection.~~

~~THE COURT: Yes. That is a form of argument. An objection has to be a legal objection. I will, however, sustain the objection on this ground, that the question of the District Attorney might be construed as falling for a conclusion. The Government may produce such evidence, X~~

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and they may show the acts of the defendants, each of the defendants, and of the publications under their control.

MR. CONTENT: Yes, I withdraw the question.

THE COURT: It then becomes a question of fact for the jury to determine whether or not they acted separately, or in unison, and therefore, although the objection is stated in lay language, it is perfectly sound, and is sustained.

Q I show you a pamphlet entitled, "Labor and War", and ask whether that was gotten out by the No Conscription League, or Miss Goldman, or Mr. Berkman?

MR. BERKMAN: May the defense take a look at that?

MR. CONTENT: No.

A That was not gotten up by the No Conscription League.

Q That was not gotten up by the No Conscription League?

A No.

Q Did you ever see any of these pamphlets at the headquarters of the No Conscription League?

A Yes, you got them there, I think.

Q I say, I asked you did you see any?

A Yes, I ^{have} seen the pamphlet.

~~MR. BERKMAN: Objection, because that is testimony not bearing on this case at all.~~

~~THE COURT: He has not offered it. He is only asking the usual preliminary question. He is well within his rights.~~

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Y ~~MR. BERKMAN: Well, I object to this question. It is absolutely without bearing on this case.~~

~~THE COURT: We can't tell. That objection is overruled.~~

~~She has answered.~~

26 ☒ Q You say you have seen some around the headquarters of the No-Conscription League?

A Some were sent there. It is usual for different meetings for organizations, to send their handbills to all those who are in harmony with the work.

Q And were you familiar with this proposed meeting of June 23rd, -- did you know it was to be held on June 23rd, you personally?

A Yes.

MR. BERKMAN: The defense admits they called a meeting on June 23rd.

MR. CONTENT: In Madison Square.

MR. BERKMAN: Yes, in Madison Square Garden.

The reason I did not speak there was because it was held somewhere else.

Q But, Miss Goldman and Mr. Berkman were scheduled to speak at that meeting of June 23rd?

A They were.

Q And were some of the handbills of that meeting given out by the headquarters at 20 East 125th street?

A I couldn't say whether they were or not. I know some

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were sent there, and they were on the table when your men came.
Your people picked them up and took them out.

MR. CONTENT: Is Mr. Haggerty in the court?

Mr. Haggerty, stand up.

Q Did you ever see this gentleman in the headquarters of the No-Conscription League?

A Yes, I think I have seen this gentleman.

Q Do you recall whether or not you gave him a copy of The Blast on June 2nd, 1917?

A I don't know whether I gave him a copy on June 2nd. There were several reporters at the office.

Q That was Saturday?

A At the office on Saturday afternoon, and the June issue had just come from the press; and I gave the reporters copies of The Blast.

Q So that if Mr. Haggerty should say that you gave it to him, you would have no reason to doubt it?

A No.

~~MR. BERKMAN: Objection, on the ground that the defense admits that anybody was welcome to copies, free or paid.~~

~~MR. CONTENT: That is not cross-examination. This is defense again.~~

~~THE COURT: That is not really a technical objection. This question is perfectly proper.~~

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You say then, if Mr. Haggerty says so, you would not contradict him?

THE WITNESS: No, I do not.

Q No reason to doubt the man's word?

A No, sir. I couldn't say he was in the office on June 2nd; I know I have seen him, and he has been in the office. If he said June 2nd, I gave it to him, I take his word for it. I gave copies to the reporters that were there that afternoon.

Q On Saturday afternoon?

A Yes, if he says I did, I take his word for it.

Q I show you three checks, one of June 12th, one of June 16th, and one of June 18th, signed, the first one by Alexander Berkman, the second one by Alexander Berkman, M. E. Fitzgerald, attorney, and the third the same, Alexander Berkman, by M. E. Fitzgerald, attorney, and ask you did those come from the accounts of Alexander Berkman, about which you previously testified on your direct examination? I mean, did those come from the account in which your No-Conscription Funds were deposited?

A Well, there was only one account.

Q Only one Alexander Berkman account?

A Yes.

Q That was in the Harlem Branch of the Produce Exchange Bank?

A Yes, Produce Exchange Bank, Harlem Branch.

Q Were those for your expenses, or what do those checks

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represent?

~~MR. BERKMAN: One moment. Miss Fitzgerald don't exactly know what checks I issued, and what they were for. I would like to look at the checks.~~

~~MR. CONTENT: These were all drawn at the Hotel Brevoort.~~

A.

~~THE WITNESS: The Hotel Brevoort checks.~~

Q Were those for your expenses there?

A No, those were for Mr. Berkman.

~~MR. BERKMAN: May I --~~

Q For Mr. Berkman?

A Those were for Mr. Berkman.

~~MR. BERKMAN: The defense wants to state, Mr. Berkman is not a resident in New York --~~

~~MR. CONTENT: He can't state that. This is not fair.~~

~~THE COURT: No, you cannot state that now.~~

~~MR. BERKMAN: In explanation of the checks?~~

~~THE COURT: You will have plenty of chance to bring that out. You are going to have the fullest opportunity to cross-examine on any point that the District Attorney examines on, and also the fullest opportunity to produce any appropriate testimony on your own behalf.~~

Q This first check is \$46.25, the second \$12.95, and the third \$17.87. Are you able to state what these three different checks were for?

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A Well, for the hotel room.

THE COURT: What is the answer?

THE WITNESS: The \$46.75 was for the Hotel Brevoort ;
it must be he paid for his room and board.

The other two are blank checks, aren't they?

THE COURT: Checks on blank forms, you mean?

THE WITNESS: These were made on the hotel blank forms.
Those were for hotel bills.

Q Were those for yourself?

A Well, I can't say, one might have been.

MR. BERKMAN: May the defense see those checks?

THE COURT: Yes, show the checks to the defendants.

Do you want those marked for identification?

MR. CONTENT: Yes, after Mr. Berkman has finished with
them.

THE WITNESS: I could not say positively until I saw
the bills going with them, whether they were hotel bills.

MR. CONTENT: That is all.

RE-CROSS EXAMINATION BY MR. BERKMAN:

Q What is the reason I was staying in the Brevoort Hotel,
so far as you know, if you know?

A Because you were not a resident in New York City, and
when you stayed in the City you went to the hotel.

Q And do you remember my making out checks to pay my
bills there?

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A I do.

Q And these checks, can you identify these, or some of them, as some of the checks I paid to the Brevoort Hotel?

A One you wrote yourself. The other two -- I paid a bill after you were arrested. There were bills left unpaid at the Brevoort when you were arrested, and those checks correspond to the bills that were left unpaid at the Brevoort when you were arrested, and I paid some of them.

Q All the bills have been paid by check?

A Yes, I think all the Brevoort Hotel bills were paid by check, yes.

Q And generally, all the business of The Blast was paid by check?

A Yes, except the little bills, something like stamps, and those things, which of course were paid by cash.

Q But generally the bills were paid by checks?

A Yes.

Q In what form was money sent to the San Francisco labor unions, was that in the form of check or cash?

A In the form of checks, certified checks.

Q In certified checks. Now, can you please tell us the bank account of The Blast, what does it consist of?

A The bank account of The Blast was a bank account in your name, and consists of funds sent to the Blast for the purpose of publishing the paper, subscription money, and con-

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tributions; and there were labor funds, San Francisco labor fund, and there was a Seattle labor fund, and then the No-Conscription League funds that I endorsed and turned over to expedite matters, to Mr. Berkman's account.

Q Is there any personal account of mine with the Blast?

A No, sir, you have no personal account.

Q I mean it is in the bank under my personal name?

A Yes.

Q You said there were how many officers in the No-Conscription League?

THE COURT: She said two.

Q Was either of them paid?

A No.

Q Was anybody paid for doing the work of the No-Conscription League?

A No one was paid for the No-Conscription Work.

Q How were you, or myself, paid for the Blast work?

A Why, when there were certain things needed, and we could have it, we took it from the general funds of The Blast.

Q Did we generally have a note of what, for instance, the expenses for a week or a month were?

A Yes.

Q And what the necessary expenses would be for the paper itself?

A Yes, what was paid for the paper.

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Q And a note of what the number of subscribers were, and how many already paid for the paper?

A Yes.

Q The number of subscribers, and how many of them had been paid for, subscribers to the paper?

A Yes.

Q And the balance, if there was an occasional balance, after the expenses were deducted -- were you paid as an employee, or simply as a collaborator?

A No, I was not paid as an employee.

Q Sharing whatever was left?

A Yes, that is the anarchistic idea.

Q In other words, we carried out our principles in regard to mutually sharing whatever there was left?

A Yes, we did. I would like to say this, that speaking of the personal account, I did some work for my own account. I did work for the Lyceum, and the Chatauqua, to make a little money for my own expenses, so I had some funds outside of the Blast, for that work.

(The check of June 12, 1917, marked Government's Exhibit 20 for identification).

(The check of June 16, was marked Government's Exhibit No. 21 for identification).

(The check of June 18, was marked Government's Exhibit No. 22 for identification).

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~~MR. CONTENT: They are all this year.~~

G E O R G E W . B U R N H A M , a witness called on
behalf of the Government, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. CONTENT:

Q What is your occupation?

A Real estate, with Barnett & Company.

Q Are they real estate brokers?

A Yes.

Q Where is your place of business?

A 11 East 125th street.

Q Were they the brokers or agents for 20 East 125th St.?

A They were the agents.

Q Do you collect the rents?

A I do, a portion of them.

Q Do you collect the rents for 20 East 125th street?

A Yes.

Q Do you know the defendant, Emma Goldman?

A Yes.

Q How long have you known Miss Goldman, approximately?

A About a year, probably two years.

Q Do you know Alexander Berkman?

A No, I have never met him.

Q You saw him in court. Had you ever seen him before?

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A Not that I recall.

Q To your knowledge?

A Not that I remember.

Q But you have seen Miss Goldman during the last year, at least?

A Yes.

Q Now, will you take the second floor of the premises at 20 East 125th street, one flight up, and tell me by whom those premises are occupied?

A Emma Goldman.

Q Is she the tenant for that second floor?

A The second floor.

Q Have you a lease with her?

A No.

Q What is the arrangement between yourself and Emma Goldman?

A Monthly rental.

Q So that she is a tenant from month to month -- is that correct, as it is called?

A Yes.

28 Q How long has she been such a tenant, from month to month, on the second floor of these premises at 20 East 125th street?

A Two or three years.

Q Have you collected rents from Miss Goldman here, yourself?

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A I have, on several occasions.

Q You have never, however, met Mr. Berkman?

A No, I never met him.

Q Will you please tell me whether Miss Goldman occupies the whole second floor?

A She rents the whole second floor.

Q As a tenant, from month to month?

A Yes.

Q And at what rental? Do you recall the monthly rental?

A Twenty dollars.

Q Twenty dollars per month?

A Yes.

Q Will you tell me who are the tenants of the third floor of the same building?

A Well, the tenant for the third floor, front hallroom, is an old man who has always lived there, his name is J. Michaels.

Q What is his business?

A He manufactures, I believe sells novelties.

Q So far as you know, he has nothing to do with Miss Goldman?

A Oh, no.

Q Who else?

A In the rear room, a party named Kelly. I don't know who he is, because I have never had contact with him.

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Q How long has Kelly been there?

A About three months, I understand.

Q Prior to Kelly, who was the tenant of the same premises?

A Kerr.

Q Now, did you ever rent any part of the second floor to Miss Goldman or Mr. Berkman?

A No, the third floor.

THE COURT: You mean the third floor.

MR. CONTENT: Yes, the third floor.

THE WITNESS: No, sir.

Q And so far as you know, only Miss Goldman is the tenant of the second floor of that building?

A Yes.

Q And that is all she paid rent to you for, the second floor, for which she pays \$20 a month?

A Yes.

MR. CONTENT: That is all.

CROSS EXAMINATION BY MISS GOLDMAN:

Q Will you be good enough to tell the Court whether you can remember just about how long I have the office from your firm, for Mother Earth?

A I could not say, Miss Goldman, because I had nothing to do with it beyond about a year ago -- I think it was a year ago.

Q I see. So that you really were not the gentleman who

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rented the office to me?

A No, ~~sir~~. *man*.

Q You said you sometimes collected the rents?

A Yes.

Q Why don't you always collect the rents?

A Well, because sometimes a check was sent by mail, and it was not necessary.

Q You said that a gentleman by the name of Mr. Kerr, had rented the upper rear room of the floor?

A Yes.

Q Have you any knowledge how long he had the room?

A No, I never had anything to do with that party, because I believe it was always paid by mail.

Q You have no knowledge about how long he has been there?

A No.

~~Q You have no knowledge how long he has been there?~~

~~A No.~~

Q And you have, of course, no knowledge how long ago Mr. Kelly took the room over from Mr. Kerr?

A I think it was about three months ago. I won't be positive. That was the first I heard of it.

Q Then, so far as you know, I was in charge of the second floor all the time?

A As far as I know.

Q But you can't remember how long ago it was?

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850812018

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A No, I can't.

Q It will be three years this October?

A Well, I should judge it was about that time.

MR. CONTENT: If Miss Goldman says she has been that long, I will concede it.

Q Now, as far as you know, did your firm ever, do you remember, have trouble with either myself as a tenant, or with The Blast?

A Well, I couldn't say we ever had any trouble. There was once a little objection to a sign that was out, but when we spoke to you about it, you removed it shortly afterwards.

Q But otherwise everything went along smoothly, without any difficulty?

A No difficulties at all.

MISS GOLDMAN: That is all.

REDIRECT EXAMINATION BY MR. CONTENT:

Q Was Miss Goldman a tenant there during May and June of this year?

A Yes.

CROSS EXAMINATION BY MR. BERKMAN:

Q Were you always in the office, Mr. Burnham?

A Not always, I have been for the last year in most of the time.

Q Well, during the day are you there all the time?

A Most all the time.

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Q Wouldn't it be possible for someone to rent an office there from Mr. Barnett without your being present?

A Yes, it would be possible, but I would be notified of it.

Q Is your memory for faces very good?

A My memory? No, sir. I can't distinguish people in particular.

Q You don't remember seeing me -- I was on crutches then, -- coming into your office, and you referred me to a gentleman with glasses who was sitting at the table?

A How long ago was that?

Q About two ^{months} ~~years~~ ago?

A I don't remember, though I may have.

29 Q Do you remember me asking whether the office there was to be vacated by Mr. Kelly, or Mr. Kerr?

A Well, there was a rear office, I believe there was something about that.

Q And did you remember somebody asking whether the office would be vacant?

A The rear office, yes.

Q And it was not absolutely necessary for that person to rent it from you, was it?

A No, not from me, but from Barnett & Company.

~~MR. BERKMAN: Yes, that is all.~~

~~MR. CONTENT: That is all.~~

The Emma Goldman Papers

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AUGUSTUS J. DOYLE ; a witness called on behalf of the Government, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. CONTENTO)

Q Are you an employee of the New York Telephone Company?

A Yes.

Q And their main office is on Dey street, New York?

A 15 Dey street.

Q What is your occupation, -- I mean what is the form of your employment?

A Commercial agent.

Q Is it part of your duty to attend to contracts for telephone service?

A New applications, yes, sir.

Q For the installation of telephones?

A Yes.

Q I show you Government's Exhibit No. 11 for identification, and ask you whether on the lower left hand corner, that is your signature?

A Yes, that is my signature.

Q Did you take this application for a new installation?

A Yes.

Q And was it on the date mentioned there?

A That is the date it was accepted, May 12th.

Q May 12th, 191⁷₅, was the date it was accepted?

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A Yes.

Q And do you know Mr. Berkman personally?

A I just know I took that contract from him.

Q You took this yourself direct from him, this contract?

A Yes.

Q Did he sign it in your presence?

A Yes.

Q This is for a telephone at 20 East 125th street?

A Yes, I think it was the second floor.

Q And was the telephone installed?

A It was installed about five or six days later, I think.

Q Did you have any particular conversation with Mr. Berkman at the time you saw him?

A Well, that he had a splendid article, and asked the service to be rushed, and I think we made a special effort to get there; and I got a copy of The Blast.

Q Was that the May or the June issue?

A That was May.

Q And did he give it to you or did you ask for it?

A Why, I can't recall now, but I might have asked for it.

I generally do, to see what it is they publish.

Q But do you remember what he stated his business to be at that time?

A No, I can't recall that.

Q How did you know it was a publication?

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A Because he asked for listing for The Blast, and I asked what it was.

Q He asked to have The Blast listed in the telephone book?

A Yes, sir, and I asked what it was, and he said it was a magazine that they were just publishing, and I asked him has he a copy of it, and he gave it to me.

Q That was in May, however?

A That was the first week in May, the first or second week in May.

Q So that the application was to have a listing under his own name, and also under the name of The Blast?

A No, just under the name of The Blast.

Q And not in his name, Alexander Berkman?

A No, sir, not under his own name.

MR. CONTENT: I offer this contract in evidence, this is Government's Exhibit 11 for identification now.

THE COURT: It is received.

(Marked Government's Exhibit No. 11 in evidence).

(Government's Exhibit 11 shown to the jury by Mr. Content).

Q Now, I ask you if you produced from the files of the New York Telephone Company, a contract of the subscriber Emma Goldman?

A Yes, that is our regular contract form, as taken out of the contract files.

Q Taken from your contract files?

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A Yes.

Q Show you Government's Exhibit ¹²~~11~~, and ask you is that part of the contract that was produced from your files?

A That is the supplemental contract to the original.

Q Which is the original?

A The bottom one there (indicating).

Q That was January 24, 1912?

A Yes.

Q It is signed Alexander Berkman, if you want to look at it.

MR. CONTENT: Mr. Berkman concedes that on the original contract of January 24, 1912, his signature is affixed.

MISS GOLDMAN: At that time I believe I was at 55 West 28th street, New York City.

MR. CONTENT: Will you concede this was renewed then?

MISS GOLDMAN: Yes.

MR. CONTENT: Then I will not offer it in evidence.

MR. BERKMAN: Miss Goldman concedes the contract was renewed from time to time.

MISS GOLDMAN: Perhaps it needs this little explanation: You see at that time Mr. Reitman was still in the office of Mother ²⁰Earth, and he signed the original contract. Afterwards I continued to sign it.

THE COURT: That was in 1912.

MR. CONTENT: The original.

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MRS S GOLDMAN: Yes.

Q But the Mother Earth phone has always been continued?

A Yes, it has.

CROSS-EXAMINATION BY MR. BERKMAN:

Q May I ask you whether the Blast phone is entirely independent of the Mother Earth phone, on the floor below?

A Yes, in a different location in the building, yes.

Q And a different number?

A A different number.

Q Entirely different. And do you remember that I asked you to list me as The Blast, in the name of the publication?

A Yes, I do.

THE COURT: He said that.

Q Do you remember I asked you wouldn't it be possible to try to put my own name in?

A Your own name?

Q Yes.

A Why, I don't recall that, but we would list your own name, if you wanted it. I don't recall your asking me that, though.

Q Do you remember I explained that The Blast had moved from San Francisco, a new publication in New York, and was in a hurry?

A I don't know whether you said it was from San Francisco, but I know you said it was a new publication, just starting out.

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Q And that I was anxious to have the phone installed so that we could do business?

A Surely.

W A L T E R P O W E L L , called as a witness on behalf of the Government, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. CONTENT:

Q What is your occupation?

A Bookkeeper.

Q What concern do you work for?

A Walker Engraving Company.

Q What is their business?

A Photographic engraving.

Q Do you make electrotypes?

A No.

Q What do you make, wood cuts?

A We reproduce copies on copper, for our printing office.

Q Do you know Alexander Berkman?

A By sight, ~~no~~ only.

Q I mean you recognize him there now?

A Yes.

Q Do you know Miss Emma Goldman?

A No, sir.

Q Not even by sight?

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A No, sir.

Q You are the bookkeeper for this Walker Engraving Company?

A Yes.

Q Where is their business?

A 141 East 25th street.

Q Is that a corporation?

A A copartnership.

Q Who are the copartners?

A Henry L. Walker and David Epstein.

Q During the month of May, 1917, ~~May of this year~~, do you recall whether the Walker Engraving Company did any work for Alexander Berkman?

A Yes, three orders.

Q I show you a copy of a cut, "Conscientious Objector", and bearing on it at the bottom the word "Conscription", and I ask you whether that is a copy of a cut made by your concern?

A It is.

Q And do you recall by whom the order for this engraving contract was given?

A Alexander Berkman.

Q Then you proceeded to make the cut in accordance with the drawing given to you?

A Yes.

Q And after the cut was ready, what did you do with the

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cut -- you may use this (indicating) to refresh your recollection?

A The plate was delivered to the Graphic Press.

Q Did you take the receipt of the Graphic Press for it?

A We did.

Q What was done with the copy?

A The copy of the proof, and the plate was sent to Alexander Berkman.

MR. CONTENT: I offer Exhibit No. 13 for identification in evidence. Mr. Berkman, you have already identified the signature.

THE COURT: Very well. It is received.
Does that show when it was done?

MR. CONTENT: Yes, it is on that sheet.

Q This top sheet is in effect a receipt, is it, for that?

A That is right.

Q A receipt for the cut from the printer and a receipt for a copy of the proof from Mr. Berkman?

A Yes.

(Shown to the jury by Mr. Content).

Q Now I show you a large copy of the same cut, and ask you whether you made a large cut from the same drawing?

A We did.

Q At whose order?

A Alexander Berkman.

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Q And does this refresh your recollection when you sent away, and to whom you delivered the original and a copy?

A The original plate was delivered to the Graphic Press, and the proof and copies were delivered to Alexander Berkman.

Q What date?

A May 10.

Q 1917?

A 1917.

MR. CONTENT: I offer Exhibit No. 14 for identification in evidence.

(marked Government's Exhibit No. 14 in evidence).

3 Q Now, Mr. Powell, I show you Government's Exhibit No. 15 for identification, and ask you whether the copy, June 5, "In Memoriam, American Democracy" whether the cut for this copy was made by your concern?

A It was.

Q At whose order?

A Alexander Berkman's.

Q Using this to refresh your recollection, what was said at the time the original was delivered, and at the time the copy and proof were delivered?

A The original plate was delivered to the Graze Press and the proof and copies were delivered to the Mother Earth publication.

* Q Did you have any personal dealings with the Mother Earth

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publication?

A Not during this time.

Q Well, all your dealings were with Mr. Berkman?

A Alexander Berkman.

Q You didn't know Miss Goldman?

A No.

Q She was a customer of yours?

A No.

BY THE COURT:

Q Was this delivered to you by Mr. Berkman?

A One of his messengers.

BY MR. CONTENT:

Q It was brought down by messenger?

A Yes.

MR. CONTENT: I offer Government's Exhibit No. 15 for identification in evidence.

(Marked Government's Exhibit No. 15 in evidence).

(Government's Exhibit 15 shown to the jury by Mr. Content).

~~MR. CONTENT: Will you permit me to say to the jury, do not confuse the first two from the Graphic Press. This is a different printer. Just so that you don't confuse the two names, because they both begin with a "G".~~

~~THE COURT: The one at that end did not see it -- I mean the third or fourth down at that end.~~

~~MR. CONTENT: I did not mean to keep anything from~~

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~~the jury. If you gentlemen want anything, any documents, just ask for them.~~

Q Now, I show you a drawing with a man on the back of a soldier, and the phrase, "Free Russia, Maurice Becker, 1917", and ask you whether that was done by you, whether the cut was made, the cut for this drawing was made by your concern?

A It was.

Q At whose order?

A Alexander Berkman.

Q Now, using this to refresh your recollection, will you please state what was done with the original and copy of those cuts?

A The original copy, proofs and plates, were delivered to Alexander Berkman.

Q So that in this case you did not deliver the cuts to the printer, as in the three previous exhibits?

A No, sir.

Q The original, the copy and the proof, were -- all went to a Mr. Berkman?

A All went to Mr. Berkman.

Q And was there some order first which was delivered to the printer, which was subsequently cancelled?

A The original order was delivered, with his plates, to the Graphic Press.

Q And that was cancelled?

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A That was cancelled.

Q And you delivered that to Mr. Berkman, all of it?

A Alexander Berkman.

Q You did?

A Yes.

MR. CONTENT: I offer Government's Exhibit 16 for identification in evidence.

(Marked Government's Exhibit No. 16 in evidence).

(Government's Exhibit No. 16 shown to the jury by Mr. Content).

Q Do you recall whether or not your concern was paid for this work?

A Two of those orders were paid for and two of them were not.

Q Two of them were paid for and two were not?

A Yes.

Q Were you paid by check or cash?

A By check.

Q Do you know by whom the check was signed?

A The signature was Alexander Berkman.

Q You are the bookkeeper?

A Office manager.

Q And you would know of the receipt of moneys?

A Yes.

Q And you handle moneys received and paid, and otherwise?

A Yes.

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Q So that but two have been paid by the check of Alexander Berkman, and the other two are still unpaid?

A Yes.

BY THE COURT:

Q Which two, Mr. Powell?

A The one delivered on May 31st and the other delivered on June 1st.

BY MR. CONTENT:

Q Were not paid for?

A No.

Q Those are the last two I showed you?

A Yes.

Q So that Government's Exhibit No. 15, and Government's Exhibit No. 16, are the ones that were not paid?

A Both unpaid.

BY THE COURT:

Q The other two were paid for by the check of Berkman?

A Yes.

CROSS EXAMINATION BY MR. BERKMAN:

Q How long have you been working in that place?

A To my knowledge seven years.

Q Is it not a fact that your place is known as one of the best in the City?

A Yes.

Q Do fine work?

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A Yes.

~~MR. CONTENT: We hope so.~~

~~MR. BERKMAN: Well, that is an interruption.~~

Q Did you have work for me three or four years ago?

A That I can't say.

Q I mean off and on for the last seven years?

A Yes.

Q For six or seven years -- about six or seven years ago I used to give you Mother Earth Work, when I was the editor of Mother Earth?

3 ² A I don't know for whose account the work was received, whether for Masses or Mother Earth -- I can't distinguish between the two.

~~THE COURT: I suppose Masses is another paper.~~

~~MR. BERKMAN: Yes.~~

~~MR. CONTENT: That is Max Eastman's paper.~~

~~THE COURT: He says off and on for seven years he dealt with you.~~

~~MR. BERKMAN: Yes, he says from me.~~

Q And you remember you had no work from me during about two years, while I was absent from New York, during 1915 and 1916?

A I can't recall exactly.

Q You can't tell?

A No.

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Q Don't you know when I returned to New York, I began giving you orders again?

A Of course, I don't know when you came to New York, or when you went. I only remember the orders.

Q Do you remember whether my custom was to telephone there to Mr. Epstein that I have an order?

A I think it was, yes.

Q Have you heard Mr. Epstein talking to me on the phone?

A I have.

Q Receiving orders?

A I have.

Q And then I would send a boy down with the cut?

A That is right.

~~MR. BERKMAN: That is all.~~

~~MR. CONTENT: No questions.~~

~~MISS GOLDMAN: No, I don't want to ask any.~~

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M A R K E P S T E I N , a witness called on behalf
of the Government, being first duly sworn, testified
as follows:

DIRECT EXAMINATION BY MR. CONTENT:

Q What is your occupation?

A With the Graphic Press.

Q Is that a corporation?

A Yes.

Q A New York corporation?

A Yes.

Q Where is its business?

~~A 53 Cooper Square, New York City.~~

~~Q 53 Cooper Square, New York City?~~

A 53 Cooper Square, New York City.

Q Are you an officer of the corporation?

A Yes.

Q Who is the President?

A Mr. Moses Spiegel.

Q What office do you hold in the corporation?

A Treasurer.

Q You are one of the officers?

A Yes.

Q Is that correct?

A Yes.

Q What is your particular function in the office, I mean

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what part of the work do you attend to, specially?

A I am in charge, at the head of the pressmen, and also take care of the office.

Q Do you know Mr. Alexander Berkman?

A Yes.

Q For how long have you known him?

A Not quite a year.

Q Have you been employed in the office of the Graphic Press since you knew him?

A Yes.

Q From the time you first met him, you have had your relations at the office of the Graphic Press?

A Yes.

Q That is, I mean your acquaintance is limited to business relations?

A What?

Q Never social friends, just business relations?

A No, business relations.

Q Do you know Miss Emma Goldman?

A I know her by sight. I am not acquainted with her.

Q Ever have any conversation with her?

A No.

Q You have spoken with Mr. Berkman?

A Yes.

Q Has he ever been at your place of business, 53 Cooper

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Square?

A Yes.

Q Did you do any work during the months of May and June of this year for the No-Conscription League of No. 20 East 125th street?

A Yes.

Q Have you the record to refresh your recollection as to just what exactly you did, what work you did for that league?

A Yes, as per your instructions, I have the journal where I usually enter my orders.

Q Will you produce it?

A Yes. (Producing same).

Q Without looking at that, you cannot tell us the exact dates on which you did work?

A No.

Q So that would refresh your recollection as to the dates when you did jobs for the No-Conscription League?

A Yes.

MR. CONTENT: Now, turn to the month of May, 1917.

Don't go beyond that.

~~Q Now, proceed, will you.~~

~~THE COURT: You have not asked any question.~~

Q Will you give us the date of the first piece of work you did in May for the No-Conscription League, or Alexander Berkman, or Emma Goldman?

The Emma Goldman Papers

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A On May 10th I printed 15,000 circulars for the No-Conscription League.

Q Will you look at Government's Exhibit 1 for identification, and state whether that is the one you refer to as the circular?

A No.

Q It is not?

A It is not.

Q Do you know what kind of circulars they were, the order of May 10?

A No, I can't tell you.

Q What did you call them in your records?

A Manifestoes.

Q The May 10 circulars were a notice of meeting, something like that?

A I believe it was.

Q You have no record of them?

A No, sir.

Q How many, on May 10, did you print, of that circular?

A 15,000.

Q At whose orders?

A No-Conscription League.

Q Do you remember how the order first came to your firm?

A Why, I believe it came by telephone, and then the copy was sent down.

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Q And to the best of your belief that was a manuscript for a meeting?

A Yes.

Q Now, will you turn to your docket, and tell us what the next order was?

A On May 10, 350 tickets.

Q Presumably for a meeting, I suppose?

A For a meeting.

Q After that -- go ahead.

A May 14.

Q What was that?

A 7000 envelopes, No-Conscription League; and 6000 letter-heads.

~~MR. CONTENT: Just wait a minute, I wanted to show you~~

Q I show you Government's Exhibit 4 for identification, and ask you if that letterhead, on which that multigraphing work is written, whether that is the work of the Graphic Press?

A Yes.

Q How many of these did you print on May 14th?

A Six thousand.

37 Q Now, will you please look at this envelope, Government's Exhibit No. 7^A for identification, and state whether that is the envelope that you printed?

A Yes.

Q That your firm printed for the No-Conscription League?

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A Yes.

THE COURT: 7000?

THE WITNESS: 7000.

Q And six thousand letterheads?

A Yes.

Q Tell us what appears next on your journal?

A On May 16, 25,000 manifestoes.

Q Is that what you referred to as the manifesto, Government's Exhibit 1?

A Yes.

Q And you delivered to Mr. Berkman 25,000 manifestoes?

A On the 16th.

Q On the 16th of May?

A Yes.

MR. CONTENT: I offer Exhibit 1 for identification in evidence.

THE COURT: Received.

(Marked Government's Exhibit 1 in evidence).

MR. CONTENT: I will not read that until the close of this witness's testimony.

Q Now, give us the next order?

A On May 17, 2000 circulars.

Q What were they, do you know?

A I can't tell you.

Q They were not manifestoes?

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A No, all manifestoes were entered as manifestoes.

Q Now, what comes next?

A On May 23rd, for The Blast.

Q What was that?

A 5000 letterheads.

Q Go ahead?

A Also 5000 for the No-Conscription League.

Q 5000 letterheads?

A For The Blast, and also for the No-Conscription League, 20,000 subscription blanks.

Q Do you know whether this letterhead was printed by your firm for The Blast?

A Yes.

Q Is that what you refer to in the testimony?

A Yes.

Q What date was that given?

A On May 23rd.

MR. CONTENT: I ask to have these marked for identification.

(Marked Government's Exhibit No. 23 for identification).

Q I show you Government's Exhibit 8-C for identification, and ask whether those were printed by your firm for the No-Conscription League?

A Yes.

Q That is what you referred to as the subscription blank?

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A Yes.

MR. CONTENT: That is 8-C for identification.

Q What next, Mr. Epstein?

A On the 29th of May.

Q May 29, 1917?

A For the No-Conscription League, 30,000 circulars.

Q Do you know whether this Exhibit which I show you, this leaflet, which I show you, is the circular to which you refer?

A Well, I printed several, and I can't exactly tell.

Q This paper was printed by your firm?

A Yes.

Q That was printed for the No-Conscription League?

A Yes.

MR. CONTENT: Well, I offer this in evidence. That is the handbill of the June 4th meeting.
(Marked Government's Exhibit 24 in evidence).

THE WITNESS: I also printed another the same day, 5000 subscription blanks.

Q The same kind that you previously testified about?

A Yes.

Q You only printed one kind of subscription blanks for them?

A As far as I remember.

~~Q As far as you remember?~~

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~~A Yes.~~

MR. CONTENT: Will the stenographer note that that is similar to 8-B for identification.

Q What is the last date you testified about?

A May 29th.

Q The 29th of June?

THE COURT: May.

A Of May.

Q That is the subscription blank?

A Yes.

Q Did you do any more work?

A May 31, I sent 3500 wrappers for magazines.

Q Were those blank?

A Blank.

Q Now, you also sell papers, and wrappers, and things of that sort?

A Yes.

Q So that there was no printing on these wrappers?

A No printing, blank paper.

Q You just furnished them to the No-Conscription League?

A No, to The Blast.

Q For whom?

A The Blast.

Q What comes next. That last was May 31.

A That ends up May. On June 4, printed 23 ribbons,

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printing on silk ribbons.

Q Printing of committee ribbons?

A Yes.

Q Was it your recollection that these ribbons had the words "Committee" on?

A Committee, that is all.

Q After June 4, did you do any other work?

A On June 7, for the Blast, 2000 envelopes.

Q Were they plain envelopes?

A No, printed, "The Blast".

Q With the name, "The Blast" on?

A Yes.

Q What comes next?

A June 11, 5000 letterheads.

34 ☐ Q Were the same type you have previously identified?

A The same.

Q No-Conscription League letterheads?

A No-Conscription letterheads.

Q What is next?

A That is all, I think.

Q So that the last entry was June 11, is that correct?

A Yes.

BY MR. BERKMAN:

Q What kind was the June 11, letterhead?

A I believe it was No-Conscription League.

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BY MR. CONTENT:

Q I show you Government's Exhibit 13, and ask you whether that is your signature on the upper part of this receipt?

A Yes.

Q So that you received that cut for the picture of "Conscientious Objector"?

A I must have received it, because I signed it.

Q And you recall receiving some sort of a cut from the Walker Engraving Company?

A I received quite a few cuts from the Walker Engraving Company.

Q Look at Exhibit 14, and state if you received that?

A I can't recall.

Q But you previously testified you printed both these different types?

A Yes.

Q Well, the one is a small engraving, and the other is a larger engraving, or sort of a drawing?

A Sometimes the engraver delivers up the cut, sometimes delivers it to the customer, and it goes with the copy.

Q Just look and see, isn't that your signature on Government's Exhibit No. 14?

A Yes.

Q That would show you received it?

A Yes.

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Q So that you have no reason to doubt you received both these cuts from the Walker Engraving Company?

A No, I have no reason to doubt it.

Q Now, all the printed matter, all written matter, written material, about which you have testified as having been ordered, was that all delivered by you to 20 East 125th street?

A Yes.

Q In each instance?

A Yes.

Q Have you been paid for any of them?

A Yes.

Q For all of them?

A For all of them.

Q Do you recall by whom the checks were signed?

A Well, I couldn't tell you exactly.

Q Do you remember any of them?

A Well, some of them were signed by Berkman, but I could not say they were all signed by him.

Q But some you are sure of?

A Yes, sir.

MR. CONTENT: Before Mr. Berkman cross-examines, I would like to read these two exhibits to the jury.

THE COURT: Very good.

(Read to the jury by Mr. Content).

~~MR. CONTENT: That is all.~~

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CROSS EXAMINATION BY MR. BERKMAN:

Q Mr. Epstein, how long is it since you have received work from me?

A It is about a year, I believe.

Q You don't know where I was before that?

A Before what.

Q Before a year ago, I came to you.

A I knew you were in San Francisco.

Q And since I came to New York, I began giving you work, at your place?

A Yes.

Q Was the first work I gave you No-Conscription work?

A No.

Q What was the first work I gave you?

A It was in reference to the San Francisco labor trial.

Q Was there considerable work?

A Well, it all depends on what you call considerable.

Q Well, I mean what kind of work, for instance, circulars for mass meetings?

A Posters for mass meetings.

Q Circulars?

A Some for a ball that was run for that purpose.

Q For the benefit of the prisoners' appeal?

A Yes, and work of that nature.

Q Manifestoes in behalf of the San Francisco unions?

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A Yes.

Q Well, I should say rather considerable work, as one individual's work goes?

A Yes, considered from my place, I considered it quite some.

Q Considerable work?

A Yes.

Q And that was long before --

A Oh, that was about a year ago.

Q Well, I mean a whole year before you began receiving any No-Conscription work?

A Yes.

Q In the last two months you have received No-Conscription work and also Blast work?

A Yes.

Q And the No-Conscription work consisted of circulars and handbills, you call to mind?

A Yes.

Q Advertising certain meetings, mass meetings?

A Yes.

Q Also manifestoes?

A Yes.

Q Under date of May 10th you had 350 tickets?

A Yes.

Q What kind of tickets were they?

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A If I am not mistaken, they were for a meeting called the, I don't remember how it was, but for the Mooney meeting, connected with San Francisco.

Q That is the San Francisco matter?

A Yes.

Q Do you know whether the ticket was in a corrugated little box?

A I think it was.

Q Sold for the benefit of Tom Mooney?

A I think it was.

Q For the benefit of Tom Mooney, in San Francisco?

A Yes.

Q That had absolutely nothing to do with the No-Conscription work?

A No.

35 ☒ Q How many issues of The Blast did you publish?

A One.

Q What month?

A May.

Q May issue?

A Yes.

Q When I transferred the June issue to another printer, what was the reason why, on account of which, we could not get it done in the 1st of June?

A I was too busy and could not turn it out in time.

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Q And therefore I had to transfer it to some other place?

A Yes.

Q You spoke here about the circular for the Hunt's Point Palace Meeting -- the handbill advertising the meeting. Do you remember when I first sent the copy for that meeting, that it was for Madison Square Garden?

A Yes, I remember that they were.

Q You remember setting up proof for that Madison Square Garden meeting?

A Yes.

Q Do you remember my changing it afterwards, notifying you it was not for Madison Square Garden?

A Yes.

Q And was for Hunt's Point?

A Yes.

Q Do you remember the original plan for the meeting, the proof you sent, and I changed it?

A I remember that, about the changing.

Q You have no copy of that proof?

A No, sir.

Q You remember the handbill was ordered for a Mothers' Mass Meeting in Madison Square?

A Yes.

Q And then you submitted proof?

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A Yes.

Q And I changed the wording from "Mothers' Mass Meeting" in Madison Square, to "No-Conscription Mass Meeting", Hunt's Point Palace?

A Yes.

Q You mentioned that you made, printed 23 ribbons on June 4?

A Yes.

Q What kind of ribbons, committee?

A Committee ribbons, just the word "Committee".

Q That is, to be worn on the arm?

A Yes.

Q Outside of that simply the committee being known?

A Yes.

Q What was the wording of this committee, just one word?

A The word "Committee".

Q The one word "Committee"?

A Yes.

Q You say you did printing for The Blast envelopes and The Blast letterheads?

A Yes.

Q Did you understand the reason to be that the addresses had to be changed from San Francisco to New York?

A Yes.

Q Now, are you not sure all the checks you received from

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The Blast office which were for No-Conscription work, were signed by me?

THE COURT: Do you remember whether all the checks were signed by the defendant Berkman.

THE WITNESS: My impression is, most of them were. Whenever I happened to look at the signature, I believe it was Alexander Berkman. Sometimes I did not notice it.

Q Was I the only other person who dealt with you in regard to printed matter for The Blast and the No-Conscription matter?

A Yes, I did not know anyone else.

Q You don't remember of Miss Goldman ever giving you any order for No-Conscription work?

A I never had any orders from Miss Goldman.

Q I was the only one that gave orders for that work?

A Yes.

Q Can you think of any checks for No-Conscription work or Blast work, that was signed by anybody else, some other name, not my name?

A No, sir, I can't.

Q Do you know of your place ever doing any work for Mother Earth?

A No.

Q The only work you ever did so far as we are concerned was The Blast and the No-Conscription?

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A Yes.

~~MR. BERKMAN: That is all.~~

CROSS EXAMINATION BY MISS GOLDMAN:

Q You said, Mr. Epstein, you knew me only by sight -- I believe you said that?

A Yes.

Q Have you at anytime in your recollection received any kind of work from myself, or the Mother Earth office?

A No.

Q You have not, have you, at any time, received orders from me for the No-Conscription League, for any kind of printing?

A No.

Q Or from anyone from the office of Mother Earth?

A No.

Q And of course since you have received no orders, have you received any payments?

A No.

~~THE COURT: From whom?~~

~~MR. CONTENT: From Miss Goldman or Mother Earth.~~

~~Q From me or Mother Earth?~~

~~A No.~~

~~MISS GOLDMAN: That is all.~~

~~THE COURT: We will take a short recess now for about five minutes.~~

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W I L L I A M C U R T I S D E M O R E S T , a witness
called on behalf of the Government, being first duly
sworn, testified as follows:

DIRECT EXAMINATION BY MR. CONTENT:

Q You are a member of the bar of the State of New York?

A I am.

Q But you are not practising now?

A No, sir.

Q You reside at 18 East 94th street, New York City?

A Yes.

Q Where is your place of business?

A 217 Broadway.

Q I show you Government's Exhibit No. 7 for identification, 7-A, 7-B, and 7-C, and ask you whether you received them through the mails, at your residence?

A I did.

MR. CONTENT: I offer those in evidence, Government's Exhibit 7, and the inclosures, 7-A, 7-B and 7-C, in evidence.

Any objection?

36 MR. BERKMAN: No.

THE COURT: They are received.

(Received in evidence as Government's Exhibits 7, 7-A, 7-B, 7-C.)

Q About the same time, did any other member of your family receive similar literature?

A My maid handed, that same day, to me, exactly similar

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literature, addressed to my wife, at the same time the Government's Exhibit was handed to me, from the same mail.

Q Did you open this exhibit?

A I did.

Q And you turned it over to me?

A I did.

Q And your wife received a similar one in the same mail?

A It seemed to me to be absolutely similar.

Q And to the best of your recollection it was received at the same time, at your joint residence?

A Yes.

~~MR. CONTENT: That is all.~~

MR. CONTENT:

I will show these exhibits to the jury, and will read the letter later. (Showing exhibits to jury).

~~You may cross-examine.~~

MR. BERKMAN: No questions.

~~MR. CONTENT: The only new matter is the letter, which~~

~~I will read to you a little later.~~

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S I G M U N D K A N T R O W I T Z , a witness called on
behalf of the Government, being first duly sworn, testi-
fied as follows:

DIRECT EXAMINATION BY MR. CONTENT:

Q What is your business?

A Printer.

Q What is the name of your printing establishment?

A The name is the Gra^zel Press, Inc.

Q Is that a New York corporation?

A Yes.

Q Are you an officer of the corporation?

A Yes.

Q What officer?

A Secretary and Treasurer.

Q Where is your place of business?

A 129 Lafayette street.

Q Do you know Alexander Berkman?

A Yes.

Q Do you know Emma Goldman?

A Yes.

Q How long have you known Berkman?

A About four years, three years and eight months, or
six months.

Q Has he ever been at your place of business?

A Yes.

The Emma Goldman Papers

850812038

United States v. Goldman & Berkman: Stenographer's Minutes [1917 June 27 to July 9] / William J. Finerty, Stenographer, United States District Court, Southern District of New York. — 824 p. ; 28 x 22 cm.

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Q How long have you known Miss Emma Goldman?

A About three or three and a half years.

Q A little less than the time you have known Mr. Berkman?

A About the same time.

Q Has she ever been to your place of business?

A Yes.

Q So that you know them both to talk to?

A Yes.

Q During the month of May or June, of this year, did you perform any work for Alexander Berkman or Emma Goldman, or The Blast, or the Mother Earth -- yes or no?

A Yes, sir.

Q You performed some work?

A Yes.

Q Now, using these memoranda, which you have given me, to refresh your recollection, will you tell me what work you did for the Blast and for Mother Earth?

A Well, it was done nearly about the same time.

It came in to the office, the Mother Earth came in, the copy came on May 28th, and the Blast came in on May 29th.

Q Well, only give the Mother Earth first.

A Yes.

Q You say the copy of Mother Earth came in --

A Came on May 28th.

Q To your office?

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A Yes.

Q Was that what would be known as the June issue of Mother Earth?

A Yes.

Q Tell us what your records show as to the work performed by you for Mother Earth -- by the way, let me ask you this: You have been printing Mother Earth for some time?

A Yes.

Q For how long?

A Well, I came in this business, it is three years and eight months, when I came in this business, and the Mother Earth was printed already in our office when I first came in.

Q So that you have been ever since this printing Mother Earth?

A Four years or more.

Q It is a monthly magazine?

A Yes.

Q And a day or so before the 1st of the month you got the copy?

A Yes.

Q And that is you got the copy in this case on May 28th, 1917?

A Yes.

Q For the June issue?

A Yes.

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Q Tell us what your records show as to the typing, or anything of that sort?

A We started to set the linotype machine, started to set with the linotype machines on May 28th, and the last day I have got here is June 4.

Q You did not deliver all of that at once, then?

A No, sir.

Q To whom did you deliver that when you finished?

A To the bindery.

Q The book bindery?

A Yes.

Q What is the name of the binders?

A Buckley & Wood.

~~Q Buckley and Wood?~~

~~A Yes.~~

Q Is it your habit to deliver Mother Earth to Buckley and Wood?

A I don't know whether we deliver or the bookbinders send after it.

Q But, when you are ready to deliver, it goes to them?

A Yes.

Q Before it goes to Mother Earth?

A Yes.

Q They ~~don't~~ deliver direct to Mother Earth?

A Yes.

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Q You do the printing, and then it goes to Buckley & Wood?

A Yes, and they bind it.

Q Did you send the printed copies of Mother Earth, the June issue, at once to the bookbinder, or did it go at different times?

A We sent part on the 2nd and part on the 4th.

Q And how many did you send on the 2nd?

A I think one-half. I judge one-half, on the second, and half went on the 4th.

Q About half. Do you know how many you shipped altogether of the June issue of Mother Earth?

A Yes, ten thousand.

Q Is that more than usual, or less?

A It is more than usual.

Q In other words, it was more than the May issue, for example?

A Yes, it was more, yes.

Q Now, will you take your memorandum with reference to The Blast, and tell us on what date you received the copy of The Blast?

A On May 29th.

Q Had you ever printed the Blast before this June issue?

A No, sir.

Q Tell us the circumstances under which you agreed to print the Blast?

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A Well, I came in on May 29th, -- I don't remember what day it was, Thursday or Friday, --

Q May 29th was Tuesday.

A Tuesday morning, and the foreman told me that he has the copy of the Blast, and they want that we should print it, The Blast. I knew Mr. Berkman was the editor of The Blast, so I was a little bit cross, because I didn't like to do it in a hurry, and it was the last days in the month, and it was a new publication, and a new publication we always want more time.

Q It was a rush job, you mean?

A But, as soon as I saw it was only eight pages, I didn't care so much about it.

Q Did you speak to Mr. Berkman about it at all?

A And then someone told me Mr. Berkman would call me up, and he did call me up, and asked me could I have it by the following Saturday, and I told him yes.

Q By the following Saturday -- this was Tuesday?

A Yes.

Q You mean if you could have it done by the next Saturday?

A Yes.

Q That would be June 2nd?

A Yes, and I said yes.

Q Then you got the copy of the 29th. Is it your practice to deliver these Blasts also to the same firm of bookbinders, Buckley & Wood?

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A Yes.

Q Tell us what your record shows as to the delivery of The Blast, as concerned the bookbinders?

A It shows I took it off my press on the 2nd, and the 2nd was the delivery to the bookbinders.

Q How many copies did you print?

A 10,000.

Q In all?

A Yes.

Q And those were all delivered by you to Buckley & Wood?

A Yes.

Q Now, Mr. Kantrowitz, I show you Government's Exhibit No. 15, and ask you whether that is the cover of Mother Earth for the June term?

A Yes.

Q That is "June 5, in Memoriam, American Democracy"?

A Yes.

Q Had you received a cut in this case from the engraver?

A Well, I don't know who received it, but we printed it.

Q Well, that is signed "The Gra^zel Press", indicating that there is a receipt for the cut from them?

A Yes.

Q Gra^zel Press, Inc.?

A I don't know who signed it. It is signed, but we printed it. Somebody must have received it.

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Q You must have received the cut from someone?

A Yes.

Q When the job was completed, you delivered it to Buckley & Wood?

A Yes.

Q As you have indicated?

A Yes.

Q I show you a volume of Mother Earth, June 1917, No. 4, and ask you is that the June issue of Mother Earth that you printed?

A I know from the cover, I would like to look inside.

Q Look at it.

A I never saw it before, if possible, I know we printed it.

Q You printed it, not only the cover?

A Sure we printed it.

Q And delivered it to the bookbinders in this form?

A Yes.

Q Now, I show you Government's Exhibit 16, and ask you whether that is the cover of The Blast, or rather a copy of the cover?

A I don't know, because I did not see The Blast.

Q You never saw The Blast?

A Never saw it.

~~Q How is that?~~

~~A Well,~~

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Q I show you another Blast, June volume --

A If you show me another of The Blast, I admit we printed it, because we had this here, June first, the last issue, was printed.

Q Look and see, is that your June number?

A I cannot recognize it, but I know we have printed it, having the record here, we printed it.

Q Can't you tell whether it is the work of your press?

A No.

Q In no way?

A No, the same thing could be printed somewhere else.

BY THE COURT:

Q Do you know?

A I know this issue was printed by us.

Q He is not asking you if you know the words of that document. He just wants to know whether you printed that thing there.

A Well, we printed it.

THE COURT: That is all he asks you.

BY MR. CONTENT:

Q You don't remember that work?

A No.

Q you printed the June issue of The Blast?

A I printed it, yes.

Q And you printed the June issue of Mother Earth?

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A Yes.

Q And in each case you delivered the paper to Buckley & Wood, the bookbinders?

A Yes.

Q Have you been paid for the printing of Mother Earth?

A I have an account for Mother Earth; I have always had an account for them.

me Q Do you think there is still some money due you for the June issue?

A I think so.

Q How about the Blast, have you been paid?

A The Blast is paid; there was only one issue, and that is paid.

Q Do you remember how much you charged for the 10,000 copies?

A Yes, I think that you have a copy of the bill.

~~MR. BERKMAN: That is immaterial, what the printer charged. The printer's prices are quite immaterial.~~

~~MR. CONTENT: I think he has the right to show how much he charged for printing it, but I do not think of course it is of supreme importance.~~

~~THE COURT: I do not think it is material.~~

~~MR. CONTENT: If Mr. Berkman objects, I do not press it.~~

~~THE COURT: Very well.~~ V

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Q You charged for it and you were paid for it?

A Yes.

MR. CONTENT: I offer these in evidence, the Blast of June 1st, and Mother Earth of June 1st. Any objection to the offer?

MR. BERKMAN: Not at all.

(Marked in evidence, Mother Earth as Government's Exhibit No. 25, the June issue; and The Blast, Government's Exhibit No. 26, the June issue).

MR. CONTENT: I will not read it to the jury at this time, but I would like to read it later on, reserving my right to do so.

THE COURT: Very good. You can reserve reading these until you get this formal proof out of the way.

MR. CONTENT: Yes, I would like to let these witnesses get away.

CROSS EXAMINATION BY MR. BERKMAN:

Q Mr. Kantrowitz, you remember my speaking to you about soon after I brought The Blast from San Francisco, speaking to you about my desire to have it printed by you, because I knew your work, and you remarked to me you didn't like to have it taken from the other printer, the Graphic Press?

A For the last issue, you mean?

Q Yes.

A Yes, I asked you that, when you called me up, and I was

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a little bit busy, and then it was on Thursday, and you wanted it on Saturday, so I asked why did you take it from the other printer. Yes, I remember that.

Q You remember my saying he was so busy he could not get it out on time?

A Yes, that is right.

Q And do you remember my saying you ought to do it for The Blast, because that is the regular day for it to appear, on the 1st of the Month?

A Yes.

Q And after you found it was only eight pages, you consented to get it ready on time?

A Yes.

~~MR. BERKMAN: That is all, as far as I am concerned.~~

~~MR. CONTENT: That is all.~~

CROSS EXAMINATION BY MISS GOLDMAN:

Q Mr. Kantrowitz, can you approximately remember how long Mother Earth has been with the Gra^zel Press?

A Well, I came on the Gra^zel Press in November, 1913, and I knew Mother Earth was already in the office. Of course that was in November, 1913, and I don't know how long before.

MR. CONTENT: How long do you say they were printing it? MISS GOLDMAN: I think it is about 1913. We began early in 1913.

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MR. CONTENT: It is conceded that Miss Goldman first began printing Mother Earth in the early part of 1913.

THE COURT: Well, the witness said before November, 1913.

MISS GOLDMAN: Yes.

Q Since you have been with the Gra²zel Press, can you remember other occasions, other issues, when Mother Earth appeared in a larger issue -- I mean more copies than usual?

A Yes, from time to time it was sometimes, issues have been printed twice. That is to say, it was running some time, and usually it was printed, an issue of 4000, and then 3000 reprinted again, and if I am not mistaken, I think one issue was printed 5000, and 5000 reprinted, but I cannot tell you exactly.

Q Well, then, the fact that the June number was printed in 10,000 copies, would not have been anything unusual to you?

A No, it did not surprise me.

MISS GOLDMAN: Well, that is what I wanted to know.

Q And, has your firm done other printing for me, other work?

A Booklets, whatever you call it, pamphlets, some pamphlets.

Q Quite a number?

A A few.

Q At different times?

A Different times.

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Q Well, when you say a few, Mr. Kantrowitz, do you mean a few of the same kind, or different kinds?

A No, different kinds, different kinds at different times.

THE COURT: A few at different times, a few different times.

THE WITNESS: Yes, a few different times.

Q Have you printed anything from Mother Earth, or myself, any printing for the No-Conscription League?

A No, not from you.

Q Nothing at all?

A No, not from you.

Q Just Mother Earth and the pamphlets?

A Yes, the pamphlets was before.

Q And since you have been doing Mother Earth, can you tell the Court and gentlemen of the jury approximately the day when Mother Earth comes out, that is, about?

A Yes, I think I have got a card from 1916 to date.

Q No, I beg your pardon, I mean --

THE COURT: You mean what time of the month?

THE WITNESS: Yes, just a moment, I got a card from January, 1916 (reading). February 2nd, 1916, March 4, 1916 -- this is all 1916 -- March 31, May 2nd, June 2nd, June 30th, August 1, September 5th, October 4th, November 2nd, December 1, -- 1917: January 3rd, January 31st,

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February 28th, April 30th.

THE COURT: How about May and June?

MR. CONTENT: April 30th was the May issue, and he has testified to the June issue already.

THE COURT: Yes.

Q Then do I assume that there is nothing unusual in the June number coming out on the 2nd of June?

A No, it was always about the same thing.

Q And as far as you know, those who delivered the magazine, as far as you know, of course the magazine is delivered always to the office of Mother Earth?

A It is delivered to the bindery, and it goes from our place to the bindery.

Q You were not with the Gra^zel Press when your firm did the binding?

A Yes, I was, and then we sold the bindery. I don't know how it is now, we sold it two years ago, and I don't remember, but our bindery used to do the delivery of everything.

Q To Mother Earth?

A To the Mother Earth, yes.

~~MISS GOLDMAN: Thank you. That is all.~~

~~May I ask for information of the Court, whether the defense has a right to recall a witness for the prosecution.~~

~~THE COURT: Oh, certainly.~~

~~MR. CONTENT: Call him back again.~~

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✓
~~THE COURT: Absolutely.~~

~~MR. CONTENT: If you want him, I will call him back.~~

~~MISS GOLDMAN: I mean if he is now here, can I call him again.~~

~~THE COURT: You can call any witness, whether prosecution or anything else, and when there is any witness of the prosecution that you want to have, and you will let me know, I will instruct him to return?~~

~~MISS GOLDMAN: Yes, sir. Thank you.~~ ✓

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E D W A R D C . W O O D , a witness called on behalf
of the Government, being first duly sworn, testified as
follows:

DIRECT EXAMINATION BY MR. CONTENT:

Q What is your business?

A I am a pamphlet binder, pamphlets and periodicals.

Q What is the name of your bindery?

A Buckley & Wood Company.

Q A corporation?

A Yes.

Q A New York corporation?

A Yes.

Q Are you an officer?

A I am.

Q What officer?

A President and director.

Q Where is your place of business?

A 17 to 27 Vandewater street.

Q Do you know Emma Goldman?

A Yes.

Q How long have you known her?

A Ten or twelve years, I think, and probably a little
longer.

Q Do you know Alexander Berkman?

A I do.

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Q How long have you known him?

A A lesser time, some four or five years, probably, or longer.

Q Have you been the binder of a pamphlet or books known as Mother Earth?

A I have.

Q And for how long has your concern been doing the binding of that monthly publication, Mother Earth?

A The binding, a lesser time, probably two or three years.

Q Without going into that, let me ask you if you bound the June issue of Mother Earth, -- a sample of which I hand you, in Government's Exhibit No.25?

A We did.

Q And that was a regular monthly affair of yours, to bind the issue of Mother Earth?

A It was.

Q After you bound it, did you deliver that June issue, some of them, Government's Exhibit 25?

A Some of them.

Q Have you any record showing just in what parcels deliveries were made, and on what dates?

A I have.

Q Will you give us the record of the deliveries of Mother Earth?

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A I have a memorandum here.

Q Yes, use that to refresh your recollection.

A I delivered on June 2nd, 500 copies.

Q Of Mother Earth?

A Of Mother Earth. June 4th, 1500 copies; June 7, 200 copies; June 7, 500 copies; June 11, 500 copies; June 13, 400 copies.

Q Have you receipts for the deliveries, Mr. Wood?

A I have, in my hand (handing same to Mr. Content).

Q That is to the Mother Earth office?

A Yes.

MR. CONTENT: Miss Goldman, we would like to offer these, I would like to offer them in evidence if they are all right (indicating).

Q Now, Mr. Wood, did you also do the binding of the June issue of the publication known as The Blast?

A I did.

Q Was it similar to Government's Exhibit No. 26, which I show you?

A Yes, it was.

Q At whose request did you do the binding of the Blast?

A It came on the order, came from the Mother Earth office.

Q Had you ever bound The Blast before?

A No, sir.

Q Had you ever had anything to do with the publication

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before?

A No, sir.

Q So that the June issue was the first one -- before we go any further, may I ask whether in the case of Mother Earth you received the printed copy to bind from the Gra^zel Press?

A yes, sir.

Q Was that also true of The Blast?

A It was.

Q That also came from the Gra^zel press?

A Yes.

~~THE COURT: Is that correct?~~

~~THE WITNESS: That is correct.~~

Q Have you a record of the deliveries of The Blast?

A I have.

Q Will you give us the dates?

A On June 2nd we delivered 5040 copies, on June 11 we delivered 500 copies.

Q Is that all?

A We have some on hand.

Q You still have some on hand?

A Yes.

Q How many are left, do you know?

A 4500.

Q That makes it 10,000 in all?

A 10,040.

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MR. CONTENT: I offer these receipts in evidence, in one number, the receipts of Mother Earth, showing the delivery of Mother Earth.

THE COURT: Very well.

MR. CONTENT: Give them one number, bound up together. (Received in evidence as Government's Exhibit 27, being the receipts of the delivery of Mother Earth).

MR. CONTENT: I also offer in evidence the receipts of the delivery of The Blast.

THE COURT: That will be No. 28.

(Marked in evidence as Government's Exhibit No. 28).

Q Have you any Mother Earths on hand, or have they all been delivered?

A I believe we have.

Q Have you received payment for The Blast?

A We have.

Q In full?

A I can't tell you. We have an open account.

Q Have you received some payment on account?

A Yes.

Q How about Mother Earth, the June issue?

A The same, we have an open account.

Q Now, do you recall what truckman delivered the 500 Mother Earths, and the 5040 Blasts, which your receipts show to have been delivered on June 2nd, 1917?

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A We have a hired truckman, I think his name is Monahan,

Q ~~Have you seen Miss Goldman this last month?~~

A ~~I have.~~

Q ~~When was the last time you saw her?~~

A ~~At my office, about a week ago.~~

Q ~~Did you have a conversation with her at that time?~~

A ~~A short conversation.~~

Q ~~Tell the jury what that conversation was?~~

A ~~Miss Goldman called me up, and said she wanted to see me on business, and I said I was there, and she said she would come down, and she did, and Miss Goldman, to the best of my recollection, said something about the getting of Mr. Berkman's bail, and I --~~

Q ~~What?~~

A ~~Something about getting bail for Mr. Berkman, and I told her that my financial condition was such that I could not very well assist in that way, and that I was not in entire sympathy with her propaganda.~~

Q ~~That you were not in entire sympathy with her propaganda?~~

A ~~Yes, but, however, my financial condition at any rate would not warrant me in doing it, not assisting her in that way.~~

Q ~~Was there any other conversation at that time?~~

A ~~Nothing of any account, except Miss Goldman wanted a~~

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little cash, and I gave her some cash for her check, that was all.

Q You cashed a check for her?

A Yes.

Q Is that a photograph of the check which you cashed for her (indicating)?

A It is.

MR. CONTENT: I do not care to offer it.

~~THE COURT: I do not see that that is material.~~

~~MR. CONTENT: No, I just wanted to show everything that happened. I don't offer it.~~

~~THE COURT: Very well.~~

~~MR. CONTENT: That is all.~~

CROSS EXAMINATION BY MISS GOLDMAN:

Q How long have you known me?

A I think about twelve years, Miss Goldman.

THE COURT: Miss Goldman, the District Attorney interrogated Mr. Wood, in these last few questions, so as to bring out, as he said, everything that took place. The conversation about cashing the check is purely immaterial. It is of no consequence.

MISS GOLDMAN: Thank you.

THE COURT: And the conversation as to getting bail for Mr. Berkman, in my opinion, is of no consequence, and I will strike out that part of the conversation, and instruct

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~~the jury to disregard it, because the fact that a person, after an arrest, seeks to get bail for another person, is not in itself any evidence of joint action, in regard to matters that happened before.~~

Q You said you have known me about twelve years?

A Yes, I did.

Q How long have you been handling Mother Earth -- how long have you been in charge of Mother Earth?

A We have handled it all that time, since I have known you.

Q And as to the binding, you have --

A Done that part of the time.

Q Have you ever before had any difficulties whatever in your business transactions with Mother Earth or myself?

A I never had any difficulties.

Q Have you ever had any difficulties in regard to Mother Earth, with the Government?

A Never.

Q Have you ever done any other kind of work for Mother Earth, or myself, than the binding?

A I think we have had -- there were pamphlets came through our office, some I think came from you, but I have not seen them myself. We have bound some.

~~Q Since the question of our last conversation was brought up, I wish to ask you, Mr. Wood, whether our relations, I mean our business relation, was not always a friendly relation, I~~

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~~mean in the sense that I would be justified in going to you in time of trouble?~~

~~A You certainly would be justified. Our relations have always been very pleasant and agreeable.~~

~~MISS GOLDMAN: Thank you.~~

~~Q You did not think I would even for a moment come to you, because you were likely to agree with my work? I mean -- do you understand my question?~~

~~A Not exactly.~~

~~MR. CONTENT: I don't understand it.~~

~~Q I mean you did not think when I came to you in exactly the way I did, and had the conversation, that I expected that you should be agreeable with my position towards the war?~~

~~A I took it as a very natural thing for you to do, and I expressed myself, as I explained here, that it was a very natural thing that you should come to me under the circumstances, inasmuch as we have had such pleasant business relations for so many years.~~

~~MISS GOLDMAN: That is all.~~

BY MR. CONTENT:

Q Did you also send a mailing list of Mother Earth?

A Yes.

Q You took charge of the mailing of Mother Earth?

A Yes.

Q To the subscribers?

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A We did.

CROSS EXAMINATION BY MR. BERKMAN:

Q You said you received your order for The Blast from the Mother Earth office?

A To the best of my knowledge.

Q How do you mean, by the Mother Earth office? Was it reported to you? Who telephoned about it?

A The work came in the usual way, and I suppose it came from the Mother Earth office. I wouldn't say positively, about it, that it did, other than that the order did, but it naturally would, that was all.

Q Was it reported to you that I myself telephoned to you and that you were absent, and that I spoke about a new paper?

A I have no information on that.

Q When you first heard you had The Blast, when you first received the order for printing The Blast, after it was accepted by your employees, did they report to you that Mr. Berkman telephoned about the paper?

A I have no recollection of any report to me of that kind.

Q They simply took charge -- I don't know the name of the young woman who answers the phone, but I spoke to a young woman, on the phone, and then some other young man, evidently who has charge of the binding there, said they couldn't because

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they were too busy, and finally they agreed to do the job. Now, when the job was accepted, you understood it was The Blast, not Mother Earth, that it was a new job?

A Well, the employees did. I don't think they reported the matter to me. My first recollection of The Blast was that I saw some of the copies lying there.

Q Well, do you know the receipts, the signatures to the receipts for the Blast, are signed by Miss Fitzgerald, in Mother Earth, the receipts for the Blast, while the receipts for Mother Earth are signed by other names?

A I have observed that in the receipts, Mr. Berkman.

~~MR. BERKMAN: That is all.~~

~~MISS GOLDMAN: I want to ask one more question.~~

BY MISS GOLDMAN:

Q I just wanted to ask, having had payment, you received the checks from the Mother Earth, -- can you recall how they were signed, I mean by whom?

A I think, I don't really, I think they were signed by yourself, that is my recollection of it.

~~MISS GOLDMAN: Thank you.~~

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J E R E M I A H J . M O N A H A N , a witness called
on behalf of the Government, being first duly sworn, tes-
tified as follows:

DIRECT EXAMINATION BY MR. CONTENT:

Q What is your business?

A Truckman.

Q Where is your place of business?

A 396 New Bowery.

Q You work for Buckley & Wood?

A Yes.

Q On the 2nd day of June, 1917, did you make any deliv-
eries to 20 East 125th street?

A Yes.

Q Do you know what day of the week that was?

A Saturday afternoon, about three o'clock, I believe.

Q Where did you get the material for delivery?

~~A From where?~~

~~Q Yes.~~

A Buckley & Wood's bindery, in Vandewater street.

Q Where did you deliver that to?

A West 125th street, the exact number I can't say.

~~THE COURT:~~ you mean East 125th street.

Q East 125th street?

A East 125th street --

Q What was the name of the addressee?

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A The exact number I can't say.

Q Well, the name to whom you were to deliver it?

A Emma Goldman, I believe, was on the receipt.

Q Have you got the receipt with you?

A No, sir, I return that to Buckley & Wood.

Q Who did you see up there, do you recall?

A Miss Goldman, as I recognize in court here, and a young lady who was on the stand, I believe.

MR. CONTENT: Stand up, Miss Fitzgerald.

Q Did you see this young lady?

A She signed the receipt.

Q Was she there at the time?

A I think she signed the receipt, if that is her name.

Q You think she signed the receipt?

A Yes.

Q I show you a receipt for 5040 copies of The Blast, Government's Exhibit No. 28, signed "M. E. Fitzgerald", and as you does that refresh your recollection, as to who signed the receipt?

A I just said that.

Q Did Miss Fitzgerald?

A Yes, she signed it.

Q Did you see Miss Goldman there at that time?

A I think Miss Goldman handed the receipt over to Miss Fitzgerald, if I recall right.

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Q And you think Miss Goldman handed that to Miss Fitzgerald, and that is Miss Fitzgerald's signature on that document?

A Yes.

Q I show you another receipt, June 2nd, 500, a package of Mother Earth, that is also signed by M. E. Fitzgerald. And was the same thing true as to this as to the larger bundle?

A Yes, sir, I had two different sized bundles. Which *it* was, ~~it~~ I couldn't say.

Q I know, but there were two different sized bundles, and the same procedure was adopted in each case?

A Yes, I judge she handed both receipts to Miss Fitzgerald.

Q That is your recollection, that Miss Goldman handed both to Miss Fitzgerald, and Miss Fitzgerald signed them and handed them back to you?

A Yes.

CROSS EXAMINATION BY MR. BERKMAN:

Q Do you remember whether you saw me in the office?

A No, sir, I did not.

BY MISS GOLDMAN:

Q Are you very sure you saw me in the office of Mother Earth?

A I am almost positive I did.

Q And do I understand you to say when you brought the

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package of Mother Earth --

A I brought two up at first, and I asked for some help, and you called several young men down from upstairs, and told them to help carry them up, and I brought up two, and they told me not to carry any more, to let them carry up the balance.

Q And the signature -- I did not quite catch your answer -- Miss Fitzgerald signed for them?

A Yes.

Q Where are those slips?

A I turned them over to Budkley & Wood.

MR. CONTENT: They have already been offered.

One was Government's Exhibit 27, and the other Government's Exhibit 28.

~~MISS GOLDMAN: That is all.~~

~~MR. CONTENT: That is all.~~

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H U B E R T M O T Z , a witness called on behalf of the Government, was first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. CONTENT:

Q You are managing director of the Harlem River Park Company?

A Yes.

Q Is that a corporation?

A Yes.

Q Is it the owner of the Harlem River Park and Casino?

A Yes.

Q Where is the Harlem River Park and Casino situated?

A On 127th street and Second avenue.

Q On the 13th day of May, 1917, on that evening, was a public meeting held at that place?

A Yes.

Q Do you know who made the arrangements for the renting of the auditorium or ballroom?

A Mr. Berkman.

Q Alexander Berkman?

A Yes.

Q Did you receive a contract from Mr. Berkman?

A Yes.

Q I show you Government's Exhibit 2, and ask you whether that is a contract which Mr. Berkman signed?

A Yes.

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Q Did you receive from him a first deposit payment of ten dollars?

A Yes.

Q When was the balance paid?

A On the 18th of May, before the meeting started.

Q Before the meeting started up, on the same evening?

A Yes.

Q A balance of forty dollars was paid?

A Yes.

Q And by whom was that paid, do you remember?

A By Miss Fitzgerald.

Q Was that a check or cash?

A By check.

Q Do you remember now by whom the check was signed?

A I think Mr. Berkman.

Q By Alexander Berkman?

A Yes.

Q That is your best recollection?

A Yes.

Q Did you upon receipt of the final payment of \$40, sign this receipt, marked Government's Exhibit No. 3?

A Yes.

Q Is that your signature (indicating)?

A Yes.

Q And did you give it to Miss Fitzgerald?

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A Yes.

Q And the meeting was held on that evening?

A Yes.

Q Did you see Miss Goldman on that evening?

A Yes.

Q And Mr. Berkman?

A Yes.

Q They were both there?

A Yes.

CROSS EXAMINATION BY MR. BERKMAN:

Q You saw me before I made the contract for that meeting on May 18th. Did you see me before that?

A Yes.

Q What was the occasion on which you saw me?

A Why, you asked if I had the hall open for the night for a mass meeting, either for the 8th or 9th, I think.

Q I came over to you?

A To my office.

Q Several days before the mass meeting?

A Yes.

Q And I asked for the hall?

A Yes.

Q Did I understand you clearly the purpose of the meeting?

A Yes.

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Q And did I tell you it was a No-Conscription meeting?

A Yes.

Q Did I tell you it was a No-Registration meeting?

A No, sir.

MR. CONTENT: There is no testimony that he did.

THE COURT: As long as he is here, he might as well ask him.

Q I took pains to explain to you it was a No-Conscription meeting?

A Yes.

Q And took pains to tell you who would be the speakers?

A Yes.

Q And was I entirely frank about the matter?

A Yes.

Q And gave my name as the name of a speaker?

A Yes.

Q And Miss Goldman's name as a speaker?

A Yes.

Q And various other men?

A Yes.

Q Do you remember my asking you do you think the police would stop the meeting?

A I told you I would ask the police.

MR. CONTENT: What?

THE WITNESS: I told Mr. Berkman to go home, and I

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will ask the police.

MR. CONTENT: That is, if you could hold the meeting.

THE WITNESS: Yes.

Q Did I say that was satisfactory to me?

A Yes.

Q And I would return, that you should ask the police, and explain the character of the meeting?

A Yes.

Q Say who the speakers would be?

A Yes.

Q As given by me?

A Yes.

Q And return and let me know their decision?

A Yes.

Q And about a day later I telephoned to you, and you did not give me a final decision on it because you could not reach the proper authorities?

A Yes.

Q And I telephoned to you several times, explaining that we must prepare the handbills for advertising the meeting?

A Yes.

Q And what did you say to me finally, Mr. Motz?

A I said -- I signed the contract -- I said it is all right, and I signed the contract.

Q You told me it is all right to go ahead with the adver-

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tising?

A Yes.

Q And then I came over to you?

A Yes.

Q And gave a deposit, and signed the contract?

A Yes.

Q And it was understood everything is all right?

A Yes.

Q Now, tell us what was the character of the meeting, was it a nice orderly meeting, so far as my audience was concerned?

A It was a very peaceful, it was a peaceful meeting.

Q Was there a little disturbance there?

A Well, some soldiers tried to make some disturbance, but they were stopped.

~~MR. BEREMAN: That is all.~~

~~MR. CONTENT: That is all.~~

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T H O M A S J . M c G E E , a witness called on behalf of the Government, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. CONTENT:

Q You are a special agent of the Department of Justice?

A Yes, that is right.

Q How long have you been such?

A About three years.

Q Were you present at No. 20 East 125th street on the day that Alexander Berkman and Emma Goldman were arrested?

A I was.

Q What date was that, do you recall?

A June 15, I think.

Q What day of the week was that?

A I think it was a Thursday.

Q And they were arrested at 20 East 125th street?

A Yes.

~~THE COURT: Friday.~~

~~THE WITNESS: Well, I know it was the latter part of the week.~~

Q Friday, June 15, 1917?

A Yes.

Q They were arrested at 20 East 125th street?

A Yes.

Q In the afternoon?

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A Yes, in the afternoon.

Q Was the United States Marshal, Mr. McCarthy, down there at the time?

A He was.

Q Did he perform the arrest?

A He did.

Q Were you there at the time?

A I was.

Q Who entered the premises first?

A I think the Marshal.

Q How close to the Marshal were you in entering?

A Well, there were three of these people intervened, several of these deputy marshals were along with him, and I was right behind.

THE COURT: You entered practically at the same time.

THE WITNESS: Yes.

3/4 Q All in one party?

A Yes.

Q And ~~Active~~ Detective Sergeant *Barnitz?* ~~Harding?~~

A Yes.

Q And any other special agents?

A Mr. Matthews showed up a short time later.

Q He did not actually enter at the time the others did?

A No, sir, he did not.

Q And there were several deputy marshals with Marshal

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McCarthy?

A Yes.

Q On what floor was Miss Goldman then?

A I guess it would be called the second floor, the first floor above the street.

Q Who else was on that floor at the time you entered?

A There was a young man whom Marshal McCarthy placed under arrest.

Q What was his name?

A Bayles, I think it was.

Q Anyone else?

A There was another young gentleman, a young fellow, I don't know what his name was, but he was permitted to go on his way, and requested to step aside, while the Government agents performed their duty.

Q Where was Mr. Berkman?

A He was upstairs, I think it was, I believe the top floor, the third floor.

Q Did you go up?

A Yes.

Q Were you there when he was arrested?

A I don't know whether I went up just as he was placed under arrest, but I went in there very shortly after he was.

Q Who else was in the place?

A I think one representative of the District Attorney's

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office.

Q Who, Mr. Stanton?

A Mr. Stanton.

Q Did you see Miss Fitzgerald at that time?

A I saw Miss Fitzgerald -- I think she was in Mr.

Berkman's office.

Q Now, did you have any conversation with either of the defendants, yourself?

A Not any conversation.

Q At that time did the Marshal, at the time of making the arrests, remove various documents and publications?

A He instructed that they be removed.

Q And did you-- were you present while they were being gathered up?

A I was.

Q Did you stay with Detective Sergeant Barnitz?

A I did. As a matter of fact the Marshal instructed I should, to see that the Government's side was protected in every way.

Q You were there representing the Department of Justice?

A That is right.

Q Speaking of, -- I will not note now what was taken out, but you were present when Detective Sergeant Barnitz was gathering whatever he subsequently put together and removed?

A Yes.

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Q Was there anything else that happened at that time, other than the performing of the arrest and the taking of the various publications and documents that were found there?

A With the exception of that check for deposit.

Q What was that?

A On the Harlem Branch of the New York Produce Exchange.

Q There was a certain deposit?

A Made out in the name of Emma Goldman, dated June 14, for \$2400, that Miss Fitzgerald had in her possession.

Q You did not take it away from her?

A Oh, I did not, no, sir.

Q That is all?

A Yes, that is all, with exception of the bank books and so forth, we found lying there, that we sent down to the Post Office Building.

Q Well, the things were taken in a lump, and identified by Sergeant Barnitz?

A Yes.

Q But you were there while they were being gathered by the representatives of the Department of Justice?

A Absolutely.

~~MR. CONTENT: That is all.~~

MR. BERKMAN: No questions.

~~THE COURT: We will suspend now until ten-thirty~~

~~tomorrow morning.~~

(Adjourned to July 3, 1917, at 10:30 A.M.)

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UNITED STATES vs. BERMAN and GOLDMAN.

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New York, July 3, 1917, 10:30 A.M.

Trial resumed pursuant to adjournment.

P r e s e n t :

THE COURT, COUNSEL AND JURY, SAME AS BEFORE.

L E L A N D C . S P E E R S , a witness called on behalf
of the Government, being first duly sworn, testified as
follows:

DIRECT EXAMINATION BY MR. CONTENT:

Q You are a reporter on the New York Times?

A Yes.

Q Were you such reporter during the months of May and June
of this year?

A Yes.

Q I show you Government's Exhibit No. 8 for identifica-
tion, 8-B, 8-A, and 8-C, and ask you whether or not you can
state whether or not that was received by the City Editor of
the New York Times, through the mails?

A Yes.

Q How can you identify that, so far as the fact is con-
cerned that it was received at TheTimes office?

A Well, by the address on it, and by reading the Times
stamp.

Q That is the Times stamp, showing it was received on

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the 31st of May, in the afternoon -- is that right -- P.M.,
at 1:30 P.M., is that what the arrow points to?

MR. BERKMAN: The defense concedes sending these
letters.

THE WITNESS: I don't know exactly what that means,
1:30, something like that.

Q It was delivered between one and two P.M.?

A Yes.

THE COURT: Fix the date, if you will.

Q On May 31, 1917?

A Yes.

Q And it was referred to the City Editor, -- referred
by the City Editor to you?

A The Assistant City Editor.

Q And you turned it over to the Department of Justice?

A Yes.

44 MR. CONTENT: I offer in evidence Exhibit 8, Exhibit
8-A, Exhibit 8-B and Exhibit 8-C.

(Received and so marked).

~~MR. CONTENT: That is all.~~

CROSS EXAMINATION BY MR. BERKMAN:

Q Mr. Speers, please tell us whether it is customary
for organizations to notify the newspapers, sending them news
items of proposed meetings or any other public activity?

A Yes.

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Q It is?

A Yes.

~~MR. BERKMAN:~~ That is all.

J A M E S A . H A G G E R T Y , a witness called on behalf of the Government, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. CONTENT:

Q You are a reporter on the New York Herald?

A I am.

Q And were you a reporter on the Herald during the months of May and June of this year?

A I was.

Q At any time during the last two months, did you call at the office of the No-Conscription League, 20 East 125th street, New York City?

A I did.

Q Do you recollect what date it was?

A The time that I called there was on the Saturday before registration day, that would be June 2nd.

Q June 2nd. What time of the day was that that you called there?

A About four o'clock in the afternoon.

Q Now, will you tell us whom you saw there?

A The first person I saw, -- there were a number of

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others in the room, but the first person I talked to was a young man whose name I got, whose name was ^{Saxe} ~~Saxe~~ Commins, he told me his name.

Q Anybody else?

A I understood it Commins, I think it was Commins.

Q Who else did you see there?

A Why, later I saw a number of others. I first talked with Commins.

Q ^{were} ~~Was~~ Miss Goldman and Berkman present at the time you were talking to Mr. Commins?

A Not when I first spoke to him.

~~MR. CONTENT: Then you don't need to testify to that conversation.~~

Q You had a conversation with Mr. Commins first?

A Yes.

Q Do not state what it was, but after you had that conversation with him, what happened next?

A Miss Goldman came into the room.

Q Are you sure it was Miss Emma Goldman whom you see sitting here?

A Yes, I am certain.

Q What else? Did you have any conversation with her?

A Yes, I had a conversation with her.

Q Tell us what that was?

A Why, the conversation was not very material. I endeavored

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to try to find out from Miss Goldman what the No-Conscription League was going to do. She told me what I already knew, that they were going to have a meeting in the Hunt's Point Palace the following Monday night, and I asked Miss Goldman if I could have a copy of Mother Earth. She informed me that it had not been obtained from the printers as yet. I think Miss Goldman told me, at any rate.

Q Let us get that straight. You asked for a copy of Mother Earth?

A Yes.

Q And Miss Goldman told you that they had not yet come from the printer, is that correct?

A Yes, that is correct.

Q What else was said, if anything?

A Miss Goldman told me that the Mother Earth, copies of the Mother Earth were expected later in the afternoon.

Q The same afternoon?

A The same afternoon.

Q Did you leave then?

A No, I waited for a while. I did not speak any further with Miss Goldman at that time. I think I went back to a desultory conversation with Mr. Commins, and a number of others in the room, -- nothing of any consequence.

Q There were a number of people in the room?

A Yes, there were a number of people in the room.

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Q So that there was nothing out of the ordinary in your staying there?

A Oh, no.

Q What happened then next?

A Some time later some man came in with a number of bundles.

Q Did you see the expressman, who testified in court here yesterday afternoon?

A I did not notice him, not particularly.

Q You didn't pay any attention to him?

A Paid no attention to him.

Q But on this same Saturday afternoon, June 3rd, 1917, someone came with a number of bundles, that is correct?

A Yes, that is correct.

Q Then, go ahead.

A At Miss Goldman's direction, Mr. Commins brought the bundles over to the table, and Miss Goldman and Mr. Commins opened them.

Q They opened the bundles?

A Yes.

Q Did you see what was in them?

A Yes, Mother Earths.

Q You recognize that by this peculiar cover I hold up, do you (indicating)?

A Yes. Miss Goldman handed me a copy of Mother Earth,

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and I thanked her.

Q I show you a copy of Mother Earth and ask you whether that is a copy that Miss Goldman handed to you?

A Yes, that is.

Q How do you identify that particular copy?

A I identify the copy by the fact of that article signed by her, which I used in, and which was printed in the Times the following morning, and which I cut out and pasted on my copy.

Q And later, when I went over the testimony with you, I wrote your name, Haggerty, in there in your presence?

A Yes.

45 MR. CONTENT: I offer this copy of Mother Earth in evidence.

(Received in evidence as Government's Exhibit No. 29).

Q Now, after you received the Mother Earth, and thanked Miss Goldman for it, what did you do there further?

A I was just about to leave the room, and on my way to the door, a young woman whom I afterwards learned was Miss Fitzgerald --

Q The lady who testified here yesterday morning as a witness, Miss M. E. Fitzgerald?

A Yes, ^{she} asked me if I did not want a copy of the Blast, Mr. Berkman's paper and I said I did, and she handed me a copy of The Blast.

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Q I don't think you gave me that specified copy of the Blast?

A I did not have the copy.

Q Would you recognize the copy you received by looking at the cover?

A Yes.

Q Is the copy you received, similar to this one (indicating)?

A Similar to that one, yes.

THE COURT: What is the number?

MR. CONTENT: Government's Exhibit No. 26.

THE COURT: Very good. Similar to Government's Exhibit No. 26.

MR. CONTENT: Yes.

Q Did you make any endeavors to see Mr. Berkman?

A I did when I first went there.

Q Whom did you speak to about Mr. Berkman?

A I asked Mr. Commins after I came, told him I would like to see Mr. Berkman, and Mr. Commins said, as I recall it, that Mr. Berkman had been misquoted, and he did not care to see any reporters.

Q So, you did not see Mr. Berkman, but Miss Fitzgerald gave you a copy of his paper?

A Yes.

Q See if I summarize your testimony correctly: When

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you first got there, the copies of Mother Earth had not arrived, and you waited until later, when they arrived, and Miss Goldman, at your request, gave you a copy which has been received, as Government's Exhibit No. 29?

A Yes.

Q That later Miss Fitzgerald voluntarily gave you a copy of The Blast, similar to Government's Exhibit No. 26?

A Yes.

Q Is that practically all that took place that afternoon?

A Yes, I think so.

Q You went there in pursuance of your duties as a reporter on the New York Herald?

A Yes.

Q To find out what you could about this so-called No-Conscription League?

A Yes.

Q That was the only purpose of your visit?

A The only purpose.

~~MR. CONTENT: That is all.~~

CROSS EXAMINATION BY MISS GOLDMAN:

Q When you came to the office of Mother Earth, did you ask for a copy of the magazine?

A I did. You mean a copy of Mother Earth.

Q Of Mother Earth?

A Yes.

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Q When the magazine was given to you, did you pay for it?

A No, ma'am.

Q It was given to you out of courtesy, for newspaper work?

A Yes, Miss Goldman.

Q You said that you had a conversation with Miss Goldman?

A I did.

Q Can you recall what the conversation was about?

A I can't recall clearly, because there was nothing in it that I could use for publication.

Q Did you broach the subject of registration at all in your conversation with Miss Goldman?

A I think I did.

Q Did Miss Goldman at any time -- or rather, would you be good enough to tell, as far as you remember, of course, what the conversation about registration was?

A I can only remember that there was nothing, Miss Goldman -- I think I can say this properly, that there was nothing Miss Goldman said to me that was in opposition to the law.

Q May I ask whether you placed in the issue of the Herald the entire article, or only quotations?

A I think I used the entire article in quotation marks.

Q Then, I understand, and did the Court understand, that you were given a copy of Mother Earth, at your request, for newspaper purposes?

A That is true.

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850812018

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Q Is that anything unusual, in your estimation?

A Not at all.

Q And you, as a newspaper man, may I ask, took the copy of Mother Earth given to you for newspaper purposes, to the Department of Justice?

A I did not take it.

MISS GOLDMAN: That is all.

BY THE COURT:

Q What did happen about that?

A Why, following the publication of the story in the Herald, an agent of the Department of Justice called upon me, and at his request I gave him that copy.

~~MISS GOLDMAN: That is all.~~

CROSS EXAMINATION BY MR. BERKMAN:

Q You did not see me in the office of Mother Earth on that occasion, did you?

A No, sir.

Q And when Miss Fitzgerald asked you whether you cared for a copy of The Blast, she knew you were a reporter on some newspaper?

A She did.

Q In other words, The Blast also was given to you for newspaper purposes?

A Yes.

Q And when you sent in the article from Mother Earth,

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that particular article to your paper, you sent the whole article in?

A The whole article from Mother Earth?

Q Yes, that you published in the Herald.

A Yes.

Hb
H/E Q And you thought it was all right to publish that article in the Herald?

A Well, possibly --

Q Well, I want to know yes or no.

MR. CONTENT: He has a right to answer that question in his own way.

THE COURT: That is a difficult question.

MR. CONTENT: Answer the question.

THE COURT: That question is quite indefinite. It would be one thing for a newspaper to publish a fact, as a fact. That might or might not be all right, in the sense of meeting or not meeting approval or disapproval, as the case might be. The difficulty with your question is it may involve some question of the character of the article, as I understand it. See if I do not get it:

BY THE COURT:

Q As you have said, you went there as a reporter, for news?

A Yes.

Q Now, when you got this copy of the Mother Earth, you

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took this article on the front page, and quoted it in the article that you wrote for the Herald?

A Yes.

Q It is the custom, is it not, well known to us all, that newspapers do set forth what facts have occurred?

A Yes.

Q Irrespective of the merits of the case, good or bad?

A Yes.

Q And do reports, writings, speeches, and other matters, which have become public facts, by being made known?

A Yes.

Q And you are aware that on previous occasions, that Mother Earth or The Blast called up the editor, or some reporter, informing them of some mass meeting to be held, for the news?

A Yes, so far as Mother Earth is concerned. I don't know anything about The Blast.

~~MR. BERKMAN: Well, The Blast was.~~

Q But, Mother Earth had repeatedly called you up to the office about various mass meetings which took place?

A I should think so. I know we have had notices from Mother Earth.

~~MR. BERKMAN: That is all.~~

~~MR. CONTENT: Just one question.~~

REDIRECT EXAMINATION BY MR. CONTENT:

Q You did only use, for your story in the Herald, the

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article entitled "The Holiday" by Emma Goldman?

A That is all, from Mother Earth.

~~MR. BERKMAN: I object. It would have been impossible to use the whole work.~~

~~THE COURT: That is a proper question. He may say what he wrote.~~

~~Q You only used "The Holiday"?~~

~~A That is all from Mother Earth.~~

Q You did not reprint any excerpts from the article entitled "June 5th", by Sachs Commings?

A No, sir.

Q You did not print the article, "Conscription" by Ben L. Reitman?

A No, sir.

~~MR. BERKMAN: I object to the question as very immaterial.~~

BY THE COURT:

Q The only thing you did is what you told us?

A Yes.

BY MR. CONTENT:

Q Just that one article?

A Yes, from Mother Earth.

~~MR. CONTENT: That is all.~~

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W I L L I A M H . R A N D O L P H , a witness called
om behalf of the Government, being first duly sworn,
testified as follows:

DIRECT EXAMINATION BY MR. CONTENT:

Q You are connected with the New York City Police Department?

A Yes.

Q A patrolman?

A Yes.

Q What is your shield number?

A 241.

Q Are you also by training a shorthand reporter?

A Shorthand writer, yes.

Q You report public meetings?

A Yes.

Q Did you attend the meeting at the Harlem River Park Casino, 126th street and 2nd Avenue, New York City, on the evening of May 18th, 1917?

A I did.

Q Do you recall whether Miss Emma Goldman was a speaker at that meeting?

A I do.

Q She was or she was not?

A She was.

Q What time of the day was the meeting held, approximately?

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A The meeting started about half past eight at night.

Q Did you take stenographic notes of the speech of Miss Emma Goldman on the evening of May 18, 1917?

A I did.

Q And in taking the stenographic notes, did you take them to the best of your knowledge and ability?

A I did.

Q And have you your original ^{notes} of the speech of Miss Goldman, your original stenographic notes of your speech on May 18, 1917?

A I have.

Q Will you open to the place in the notes -- those minutes are on the first page of this book?

A The first page, yes.

MR. CONTENT: I ask to have this marked for identification.

(Marked Government's Exhibit No. 30 for identification.)

Q How far were you from the point at which Miss Goldman was standing during her speech?

A I was in the balcony, to Miss Goldman's left, I should say about twenty-five or thirty feet away, and up about twenty or thirty feet.

Q And could you hear her distinctly at all times during her speech?

A Yes.

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Q Miss Goldman has a resonant voice, has she not?

A yes.

Q Did you take the notes, the minutes of Miss Goldman's speech, and take them to your office, and did you make a transcript of your stenographic notes, Government's Exhibit No. 30 for identification?

A I did.

Q I ask you to look at this document and state whether or not that is a transcript of your stenographic notes of Miss Goldman's speech of May 18, 1917, -- that is to say, whether it is a transcript of Government's Exhibit No. 30 for identification?

A It is.

Q In transcribing the stenographic notes, Government's Exhibit No. 30 for identification, did you transcribe them to the best of your knowledge and ability?

A I did.

Q And do you believe this document which I hold in my hand to be an accurate transcript of your stenographic notes, Government's Exhibit No. 30 for identification?

A It is.

MR. CONTENT: Well, I offer this in evidence.

(Transcript received in evidence as Government's Exhibit No. 31).

(Government's Exhibit No. 31 was read to the jury by Mr. Content).

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~~MISS GOLDMAN: May I ask for a copy of this address?~~

~~MR. CONTENT: You may have the original. I have not got a copy. This is in evidence, so you are entitled to inspect it at all times.~~

~~THE COURT: Certainly.~~

~~MR. CONTENT: If I had a copy, I would give it to you, Miss Goldman, but I have not.~~

~~MISS GOLDMAN: May I have an opportunity to make a copy?~~

~~MR. CONTENT: I do not think it can be taken from the courtroom.~~

~~THE COURT: The way that can be done is the United States Attorney can have one of his stenographers make a copy, and then it can be handed to you.~~

~~MISS GOLDMAN: Thank you very much.~~

~~MR. CONTENT: You can examine this all the time it is in the courtroom.~~

~~THE COURT: The paper is subject to your examination at all times.~~

MR. CONTENT: Now, your Honor, I would like to offer in evidence, three form letters, Exhibits 4, 5 and 6 for identification, that Miss Fitzgerald identified as form letters that were sent out, and which the defendants saw.

THE COURT: Very good.

MR. CONTENT: And which I inadvertently omitted to

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offer in evidence at the time.

THE COURT: Well, they are in evidence.

MR. CONTENT: Exhibits 4, 5 and 6 for identification, in evidence.

(Marked in evidence Government's Exhibits 4, 5 and 6).

~~MR. CONTENT: Now, in order to save time, I would like to read to the jury those parts of the letter to Mr. Demarest, who was a witness yesterday, being Exhibit 7, 7-A, 7-B and 7-C, which have not already been read, and also to save time I will not read these same form letters unless there is something new.~~

MR. BERKMAN: Objection.

MR. CONTENT: Well, it is in evidence already.

MR. BERKMAN: To read an excerpt of something is very misleading.

MR. CONTENT: I don't mean an excerpt. You misunderstand me. I mean what I have already read, explicitly, I won't re-read it.

THE COURT: What he means is, for instance, that there were papers that went in evidence and were read. Now he says he will not read them again. He will not read again what has already been read to the jury, but only such papers as are new.

MR. BERKMAN: Yes.

MR. CONTENT: Now, this is a letter, Government's

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Exhibit 7, as to which Mr. Demarest was a witness yesterday.

I have already read to you the first and second article,--

I read to you what was the so-called manifesto. I have also read to the jury the handbill of the mass meeting of June 4th, and if your recollection is not refreshed, I will hand you one, and you can refresh it. I have not yet read Government's Exhibit 7-A, being a form letter of May 25, which is exactly the same as Government's Exhibit 4. That makes it clear for the record, I think.

THE COURT: Yes.

MR. CONTENT: Now, this is on the letterhead of the No Conscription League, which letterhead I have already read to you, with the picture which you have already seen, with the words, "We will resist conscription by every means in our power, and we will sustain those who for similar reasons refuse to be conscripted". That is the form letter dated May 25, 1917. (reading same) ✓

I might let Mr. Randolph off the stand, unless you want to cross-examine. I was oblivious to the fact that he was still there.

MR. BERKMAN: I want to cross-examine him.

MR. CONTENT: Suppose you finish his cross-examination.

THE COURT: Before you start, I want to ask him one question.

~~BY THE COURT:~~

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BY THE COURT:

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Q Have you any idea how many people were at that meeting, Mr. Randolph?

A Why, I cannot judge the number, but the hall was very crowded, in fact it was congested.

Q Would you say there were several thousands?

A I cannot judge the number. It was very crowded.

Q A crowded hall?

A Very crowded.

Q Have you any idea of the dimensions of the hall?

A No, I have not.

~~THE COURT: You may cross-examine.~~

CROSS EXAMINATION BY MISS GOLDMAN:

Q Mr. Randolph, how long have you been a public stenographer?

A I have been a policeman, I have not been a public stenographer.

Q How long have you been doing public stenography?

A I don't understand the question. I do not think I have been doing any public stenography.

MR. CONTENT: Well, police stenographer.

THE WITNESS: Police stenographer, why, ever since I have been in the Police Department.

THE COURT: How long is that?

THE WITNESS: Five years and eight months, off and on.
BY THE COURT:

Q Well, the point is, before you became a policeman, were

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you a shorthand writer?

A Yes.

Q How long had you been a shorthand writer?

A About five years.

Q Before you became a policeman?

A Yes.

Q So that you have been a shorthand writer about nine years?

A Or more.

Q Nine years or more?

A Yes.

Q And did you learn shorthand writing in any school?

A I did.

Q Where?

A In the day high school, the De Witt Clinton High School, and after that I took it up at the evening high school, and graduated from there in stenography.

Q Before you became a policeman, were you employed as a stenographer?

A Yes.

Q Where?

A With the Brooklyn Navy Yard.

Q How long were you there?

A About five years.

Q And from there did you take the examination and become a policeman?

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A I did. I have also taken three examinations, three civil service examinations, municipal civil service examinations, in this City, for the position of stenographer, and qualified in all three.

BY MISS GOLDMAN:

Q Will you please, Mr. Randolph, tell us how many words a minute you can take?

A Why, I can't say at the present time how fast I can write.

Q Approximately?

A Well, between 125 and 150 words.

Q You can take that easy?

A Well, it all depends on the matter.

Q On the matter?

A On the subject matter, yes.

Q Up to the meeting at the Harlem River Casino on the 12th of May, were you in the habit of taking down speeches delivered on platforms?

A Yes.

Q Speeches and lectures?

A Yes.

Q How long have you practised in that line?

A Why, ever since I am in the police department.

Q And you can take 125 or 150 words a minute?

A According to the subject matter, yes.

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Q Now, the subject matter in the Harlem River Casino, was that an easy matter to you, or was it rather novel, new material?

A It was ordinary matter, I considered it ordinary matter.

Q You have taken such before?

A Before.

Q Speeches before?

A Yes.

Q Do you -- when you got to the Harlem River Casino, Mr. Randolph, did you see me there?

A I did.

X ☒ Q Did you speak to me?

A I did not.

Q You did not ask to be shown to a box?

A I did not.

Q You are sure of that?

A Positive.

Q Have you any knowledge of any other stenographer representing the Government having been there?

THE COURT: You better say the Police Department or the Government.

Q The Police Department, I beg your pardon.

A No, I have no knowledge of any other stenographer being there.

Q Well, how did you happen to get in a box. You say

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you were in a box when you took the notes?

A I was not in a box, I was up in the balcony, in the rear of the boxes.

Q Can you tell us whether the boxes are on the balcony?

A Yes, they are.

Q How did you get to that balcony?

A Why, I walked upstairs, the same as everybody else was doing.

Q Everybody else was walking upstairs without having an admission to a box seat?

MR. CONTENT: He said he didn't have a box seat.

A I will explain, Miss Goldman.

Q Please.

A When the crowds first came in, when the people first came in, there was an admission of fifty cents charged for the box seats in the balcony, and at that time I did not go into the balcony, I was on the main floor, on the left hand side, about the center of the hall, on the side, -- on the right hand side, I should say -- and about nine o'clock, or a quarter after nine, -- it may have been half past nine -- I went upstairs to the balcony, as I saw all the other people going upstairs. There was no longer any admission charged at that time, and there was nobody at the stairs collecting tickets, or charging admission to the balcony seats,

THE COURT: When you went up.

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THE WITNESS: When I went up.

Q And do you remember quite distinctly that you did not see me when you came to the hall?

A I didn't come to see you, but I was standing right alongside you when I bought a copy of Mother Earth, and a book entitled, "Anarchism" by you. You were standing at the table when I bought those books.

Q You also remember quite distinctly that you did not ask me to be permitted in a box, as you represented the police Department?

A I never spoke to you, Miss Goldman, that night or any other night. I have never spoken to you until now.

~~MR. CONTENT: You never spoke to her.~~

~~THE WITNESS: I never spoke to Miss Goldman.~~

~~MISS GOLDMAN: Your Honor, I shall dispute some of the statements attributed to me in the manuscript of Mr. Randolph. May I ask the Court whether the stenographer may give our stenographer an opportunity to compare his shorthand notes with the transcript?~~

~~MR. CONTENT: Yes, that may be done.~~

~~THE COURT: I am not a stenographer, but I understand that the stenographers have -- I have always heard that stenographers have their own little marks and things their own methods; but you are entirely at liberty to examine, have your stenographer examine the original~~

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~~minutes, the stenographic minutes of the witness.~~

~~As that is an original exhibit, however, it will have to be examined either in the courtroom or the District Attorney's office, or somewhere like that, because that exhibit cannot be removed, or be taken out of the Government's possession, but he will have the fullest opportunity to examine that, and take all the time he wants.~~

~~MISS GOLDMAN: That will be satisfactory.~~

BY THE COURT:

Q As I recollect, your testimony was that you were about twenty-five or thirty feet away from where Miss Goldman was talking?

A Yes, I was in the balcony, to her left.

Q There is no doubt she was below you, on the platform?

A Below, on the stage platform.

Q Could you hear her distinctly?

A Yes, except at times, when the people in the balcony were either coming in or going out, or conversing, and there was some times it was not very clear, but to the best of my ability I took everything I heard her say.

THE COURT: I see. Now, what did you do, transcribe this Government's Exhibit 31?

A I did.

Q I mean that is your own work?

A That is my own work.

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Q How soon after you took the minutes did you do that?

A That was on, -- may I refer to my memorandum book?

Q Yes, certainly. That is, I understand this meeting was on Saturday night, wasn't it?

MISS GOLDMAN: It was a Friday night.

THE COURT: Friday, yes.

THE WITNESS: Friday night.

Q Now, you have a memorandum here that Miss Goldman finished at ten-fifteen?

A Yes.

Q When was it you transcribed your stenographic minutes?

A On May 31st.

Q That would be three days later?

A Yes, sir.

Q This meeting was on May 18?

A Yes.

Q And where did you do the transcribing?

A At home.

Q At your house?

A Yes.

Q You have a machine there?

A I have a machine there.

Q A typewriting machine?

A Yes.

Q And are you confident that the contents of the trans-

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cribed copy, Government's Exhibit No. 31, agrees with your shorthand notes?

A Yes.

Q You are sure of that?

A Yes.

CROSS EXAMINATION BY MR. BERKMAN:

Q Were you at that meeting, on May 18th, as a representative of the Police Department?

A I was.

~~Q You were?~~

~~A Yes.~~

Q You used to be a policeman?

A I am.

THE COURT: He is.

~~MR. CONTENT: He is.~~

Q Oh, you are a policeman now?

MR. CONTENT: Yes, he gave his shield number, and said he was a patrolman.

THE COURT: The testimony is he has been a policeman for five years and eight months, and before that time he was a stenographer for several years, and employed in the Brooklyn Navy Yard, and from there he took his examination and became an officer, and he is utilized by the Department to go around and take stenographic notes at public meetings, to which he is assigned. Is that correct?

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THE WITNESS: That is right, and I have also taken three City examinations, and qualified in all three.

~~THE COURT: And he has taken three City municipal examinations for stenographer, and has qualified in the City of New York Civil Service examinations, in all three cases.~~

~~MR. BERKMAN: Yes.~~

Q As a member of the police force, you are aware that the defendants have been criticising the police on the platform or in their writings -- are you aware of that? You have heard that?

A Yes.

Q You know that?

A Yes.

Q And as a member of the police force that has thus been criticised, are you not somewhat prejudiced against these defendants?

A Not at all.

Q Absolutely not?

A No, sir.

Q Now, you say you were taking notes back of the boxes, up in the gallery?

A Yes, sir.

Q You stated that it was a very crowded meeting?

A Very crowded.

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United States v. Goldman & Berkman: Stenographer's Minutes [1917 June 27 to July 9] / William J. Finerty, Stenographer, United States District Court, Southern District of New York. — 824 p. ; 28 x 22 cm.

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Q Do you know that that is a very large hall?

A Yes.

Q And do you know it would hold at least between five and seven thousand people?

A I don't know how many it would hold.

~~Q Have you often attended mass meetings?~~

~~A Yes.~~

~~Q And have you not any idea or judgment as to the size of a crowd?~~

~~A No, sir.~~

~~Q You have often attended mass meetings?~~

~~A Yes.~~

~~Q And you have no idea, you cannot judge approximately the size of a mass meeting crowd?~~

~~A No, sir.~~

~~Q Any special reason why you are not able, ---~~

~~MR. CONTENT: Now he has answered that.~~

~~THE COURT: Some people are very apt at those things and others are not. Some people understand, some people can measure distances very cleverly, and some have not the faintest idea of the distance. If you had ever sat on the admiralty side of the Court, you would realize that.~~

Q As a man who has often attended mass meetings, would you say that this particular hall, Harlem River Casino, is re-

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garded in New York as one of the largest halls?

A Yes, I know that.

~~Q Do you know it is known as a little larger than the Star Casino, with more seating capacity?~~

~~A No, I could not say that, I don't know.~~

~~Q Do you know that the Star Casino is considered one of the largest halls, in 107th street, the Star Casino?~~

~~A I don't know, I have never -- I can't judge the Star Casino by the Harlem River Casino.~~

~~Q Well, you say that it is about the same size?~~

~~A I can't say that.~~

~~MR. CONTENT: He says he can't say that.~~

~~Q You know the Star Casino to be a very large hall?~~

~~A Yes, sir.~~

~~Q You know that ex-President Roosevelt and other speakers speak there?~~

~~MR. CONTENT: What has that got to do with it?~~

~~MR. BERKMAN: Well, to show it is a very large hall.~~

~~THE COURT: Sometimes those gentlemen speak anywhere they feel like it.~~

~~MR. BERKMAN: Roosevelt usually fills a large hall --~~

~~THE COURT: The Star Casino -- I have been there, we will all agree it is a large hall.~~

~~MR. CONTENT: The witness said this was a large hall, and that the meeting was congested, or crowded.~~

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~~MR. BERKMAN: Yes.~~

~~THE COURT: There is no doubt the Harlem River Casino is a large hall, and that it was very crowded, very much crowded that night, according to the witness.~~

Q And in a large hall, very much crowded, there is usually considerable of whispering and talking going on?

A Yes.

Q And you were quite a distance away from the platform -- thirty-five feet.

THE COURT: He said twenty-five feet.

Q About twenty-five feet?

THE COURT: Twenty to twenty-five feet, he said.

MR. BERKMAN: Yes.

THE WITNESS: Yes.

Q And you were in the back of the gallery, back of the boxes?

A Yes.

Q Was the gallery crowded?

A Yes.

Q A great many people were in front of you?

A Yes.

Q You could not see the speakers very clearly and distinctly?

A I could. I was standing on a table, and as a lot of other people were doing.

Q Standing on a table?

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United States v. Guldman & Berkman: Stenographer's Minutes [1917 June 27 to July 9] / William J. Finerty, Stenographer, United States District Court, Southern District of New York. — 824 p. ; 28 x 22 cm.

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A A lot of other people were standing on chairs and tables all over the hall.

Q In the gallery back of the boxes?

A In the balcony back of the boxes.

Q Are you sure there were tables back of the boxes?

A Yes, I was standing on one of them, I know.

Q Back of the boxes?

A Yes.

Q On a table?

A At that time there were tables, that night.

Q Standing on the table there, you were not very comfortable, were you?

A Not very, no.

Q Are you sure that in that condition you could take down very faithfully everything that was said?

A Yes.

Q You were not very comfortable?

A Well, I was comfortable enough to be on the table, standing away from the other people.

Q You had no table to write on, or any desk?

A No, sir.

Q And you mean to say you took down everything exactly?

A Yes, what I heard and understood.

Q Isn't it customary --

THE COURT: He said everything he heard and under-

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stood, except the name he could not get.

MR. CONTENT: Madam ^Breskovskaya.

MR. BERKMAN: Yes.

THE COURT: Yes, and a few names of a few Senators he couldn't get.

Q Some sentence you missed?

A Yes.

MR. CONTENT: That is all indicated here.

Q Would it be possible for you to misunderstand certain words and write them down differently?

A Hardly, although I might have misunderstood one or two words, or something of that kind.

Q You might have misunderstood one or two words?

A I might have, yes.

Q Before the meeting on May 18, when was the last time you attended a similar meeting?

THE COURT: Well, you mean a mass meeting?

MR. BERKMAN: Of that character, a Socialist, or No-Conscription or Anarchist mass meeting.

THE WITNESS: Why, about two or three weeks before.

Q Two or three weeks before?

A Yes.

Q What was the character of that meeting?

A I think it was of the same nature.

Q You think it was of the same nature?

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A Yes.

Q Who was the manager of that meeting, do you know?

A I don't know.

BY THE COURT:

Q Where was it?

A It was in 4th or 5th street.

Q In a hall?

A Yes.

~~BY MR. BERKMAN:~~

~~Q Fourth or Fifth street?~~

~~A Yes, Fourth or Fifth street.~~

~~MR. CONTENT: Fourth or Fifth street.~~

~~THE COURT: Fourth or Fifth street, in a hall.~~

BY MR. CONTENT:

Q On the East Side?

A East Side, I think it is No. 85 Fourth street.

BY MR. BERKMAN:

Q English speaking?

A Yes -- no, sir.

Q You attended a meeting on Fourth street which was not an English speaking meeting?

A Yes.

50 Q Do you understand any other languages outside of English?

A Yes.

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Q What particular language?

A German.

Q Were there any German speakers at that hall?

A No, sir.

Q Did you understand any of the speeches made at that meeting?

A I would not say I did, no.

Q Then, it is not important that you attended a meeting that you did not understand?

MR. CONTENT: That is not the question. That is important. You asked what was the last meeting of that kind he attended, and he answers you.

MR. BERKMAN: Perhaps I did not express myself right.

Q What was the last meeting you attended of that nature, where you took stenographic notes?

THE COURT: What was the last meeting of a socialist or an anarchist character, or No-Conscription meeting, prior to this time, in the Harlem River Casino, at which you took notes?

THE WITNESS: I think that was the last one, in Fourth street.

BY MR. CONTENT:

Q But you did not take notes at that meeting?

A I did not take notes there.

Q What was the last meeting you reported stenographically?

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A I don't just remember, just now. I don't remember.

BY MR. BERKMAN:

Q Approximately a month before, or five years?

A I can't remember.

Q But you don't remember whether or not within the last five years you attended a similar meeting, at least once or twice?

A Oh, yes, I have attended different --

Q I mean taking stenographic notes?

A I have attended different meetings, but I don't remember just when I attended the one before May 18th, outside of the one down in Fourth street.

BY THE COURT:

Q Give us some meeting you attended -- that is what he is after -- where you made notes, if your memory serves you. Have you got any memoranda, or anything --

A I can't just remember of any now, no, sir.

BY MR. BERKMAN:

Q If you had attended a meeting of that character within recent times, before the 18th, wouldn't you remember it, that you had taken stenographic notes?

A Why, I have attended so many meetings I can't remember them all. I don't always take -- I take notes but don't always transcribe them unless they are of a nature that are wanted.

Q But I mean at what meeting did you take stenographic

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notes before May 18th?

~~MR. CONTENT: Can you look at your records, or something, any memorandum, and give Mr. Berkman the last of all the meetings you have ever taken?~~

~~MR. BERKMAN: I object.~~

~~MR. CONTENT: Then I withdraw it.~~

~~THE WITNESS: I can't remember.~~

Q I ask if you can remember one particular meeting that you took stenographic notes at before May 18th?

A No, I don't remember.

Q It is very likely that within the last six months you have not attended any meeting of this character and took stenographic notes?

A I think I have, but I can't remember.

Q You are not sure?

A I am not sure, no.

Q How many meetings of this character do you think you attended and took stenographic notes at within the last year, approximately?

A I have attended quite a few, but I don't know how many.

Q I mean of this character?

MR. CONTENT: What do you mean by "of this character".

MR. BERKMAN: Socialist, No-Conscription, or Anarchistic.

MR. CONTENT: He could not have been at any No-Con-

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scription meetings.

THE COURT: You mean there were not any No-Conscription meetings as far back as a year ago.

Q Or any socialist or anarchist meeting?

A I have attended quite a few, but I don't remember how many I have attended.

Q Did you take stenographic notes at those?

A In some I did.

Q In some?

A Yes.

Q And you cannot state any meeting that you took stenographic notes at, outside of the meeting then on the 18th?

A No, sir.

Q Is it not a fact that conscription and registration are new forms, that you have not heard these terms two years ago or a year ago?

A Yes, they are new.

Q They are new things?

A Yes.

Q Isn't it very likely that public speeches made about conscription would involve new words, and new terms?

A I don't think so, no, sir.

Q You don't think talking about a new matter, a new subject, would involve a new term or a new expression?

A I do not consider that new matter.

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Q That is not new matter?

A No, sir.

Q You have always had conscription in this country?

A No, I don't mean that, but I mean the general subject matter is not new.

Q Was conscription ever discussed in this country, except in recent months?

A No. I don't know, I think it may have in connection with England it may have been.

Q I am speaking about this country?

MR. CONTENT: A word is a word. What is the difference whether it was discussed in Australia or Ireland?

51 BY THE COURT:

Q Well, of all those things that were read as your transcribed minutes, was there any word, outside of the word conscription, that was in any sense, from your point of view, a new word?

A No, sir.

Q Now, registration, you have heard that word in connection with the elections?

A Yes.

Q Violence is not a new word, is it?

A No, sir.

Q When you get off the stand, will you find ⁱⁿ your minutes the word "register", the word "conscription" and the word

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"violence" in your original minutes?

A Yes.

THE COURT: And you just show those three words to the stenographer.

MR. CONTENT: Let him show them to the official stenographer of the Court.

THE COURT: You will show those words to the official stenographer of the Court, and you can show also those words to the stenographer who is acting for the defendants.

THE WITNESS: Yes.

Q Can you look through the minutes of this quickly now?

A I think so, yes.

MR. CONTENT: I may read to the jury while he is doing that, if it will save time.

THE COURT: All right.

~~MR. CONTENT: Are you finished?~~

~~MR. BERKMAN: I am not.~~

~~MR. CONTENT: Well, all right, sir. Look those words up now, and I will read some more exhibits.~~

~~THE COURT: Yes, then you can continue the examination. Suppose, to save time, you read while he is looking at those words.~~

MR. CONTENT: This is Government's Exhibit No. 8, 8-A 8-B and 8-C, the letter received by the City Editor of the

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Times. I will not read the letter, because it is the same as the letter that Mr. Demarest received, but the subscription blank was not in it, was not in Mr. Demarest's letter, he had a notice of the June 4th meeting, that is not in this letter, and 8-A is the same manifesto already read to you. (reading subscription blank)

MR. CONTENT: Now, this letter (indicating) this was inadvertently not marked in evidence. That is the same kind as that letter.

THE COURT: Let it be marked in evidence.

MR. CONTENT: It will be 9 for identification, marked in evidence.

(Marked in evidence as Government's Exhibit No. 9).

MR. CONTENT: This is the letter addressed to Clarence Lyman Collins, at the Ansonia, and is the same form letter of May 25, the same subscription blank, and the same manifesto, and the announcement of the June 4th meeting at Hunt's Point.

I offer in evidence also, Government's Exhibit 10 for identification. That is a similar letter, which Miss Goldman ^{signed} ~~saw~~, and which bears her name; and ask to have them marked in evidence.

(Marked in evidence as Government's Exhibit 10, 10-A, 10-B and 10-C).

MR. CONTENT: This is the same form letter (indicating)

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and this is the rubber stamp "Emma Goldman", exactly the same letter, and the same handbills, the same contribution blank, and the same circular, sent to Frank Harrison, Denver, Colorado. The letter was returned to the sender, because he was not at that address, but it was postmarked New York, and deposited in the mails May 25th, 1917, at Station L.

Now these are exhibits 5, another form letter, on the same letterhead, undated, but Miss Fitzgerald said she believed that this came between the one I have already read, "A", of May 25, and June 7th. (reading same)

This is Exhibit 6, being another form letter of June 7 on the same letterheads. (reading same)

(Examination of Mr. Randolph's stenographic minutes by the official stenographer and the stenographer for the defendants).

MR. CONTENT: This is Exhibit 25, I will not read it all. I will read just such parts as I want, and the other side can read what they want of it afterwards.

~~MR. BERKMAN: The defense objects to reading portions, because it is very misleading to pick out a paragraph here and there.~~

~~THE COURT: The rule in those matter is that the exhibit goes to the jury, and each side has the right to read any or all thereof, and there are parts that are immaterial~~ Y

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~~Mr. Content can read what he desires, and you, Mr. Berkman, and Miss Goldman, can read what you desire.~~

~~MISS GOLDMAN: I would like to know if it is permissible to give a copy of Mother Earth to each member of the jury.~~

~~MR. BERKMAN: And also a copy of The Blast.~~

~~MISS GOLDMAN: I would like to know that as a matter of information here. I want to know by way of instruction, whether the prosecution intends to use only quotations as evidence, or to bring in the entire magazine.~~

~~MR. CONTENT: I will read just what I feel like.~~

~~THE COURT: No, no, that is not her inquiry. She wants to know whether the whole magazine is in evidence.~~

~~MR. CONTENT: Yes, the whole magazine is in evidence.~~

~~MISS GOLDMAN: That is what I want to know.~~

~~MR. CONTENT: But I don't care to exhaust myself reading it all, it is too long.~~

~~THE COURT: The whole magazine is in evidence, and the jury is at liberty to read the whole magazine.~~

~~(Reading from Exhibit 25, copy of Mother Earth, by Mr. Content).~~

~~MR. CONTENT: I also call the jury's attention to the back page, being the announcement of the No Conscription Mass Meeting of June 4th, with the words, "On the Eve of Registration, Hunt's Point Palace, speakers~~

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Emma Goldman and Alexander Berkman", the same as the handbills I read to the jury.

BY THE COURT:

Q Now, Mr. Randolph, while the United States Attorney was reading those exhibits to the jury, did you show the words that I spoke of, namely, "register", "conscription" and "violence" to the official stenographer, Mr. Hawthorne, and to the stenographer for the defendants, Mr. Munter?

A I did.

Q And you exhibited those certain portions of your stenographic notes in which those words appear, to the official stenographer and Mr. Munter as well?

A I did.

Q Now, what is your stenographic system or school?

A Isaac Pitman shorthand.

Q Now, in your Isaac Pitman shorthand -- that is a very old established stenographic system?

A Yes.

Q Now, in your method of taking stenographic notes, you follow the Pitman system, or do you have signs of your own?

A I follow the Pitman system.

Q You have no signs of your own?

A No, sir.

Q So that any person familiar with the Pitman system can read your notes?

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A Yes.

Q And when you are assigned to a meeting, when you go to a meeting like that of the Harlem River Casino, is it a fact that you are assigned there by some superior officer in the department?

A Yes.

Q And it then becomes your duty to go to the place assigned and take the speakers?

A Yes.

Q Now, sometimes, I gather from what you say, you transcribe them, and sometimes not?

A Yes.

Q And obviously you transmit them, always, when you are so ordered, to your superiors?

A That is correct, yes.

Q And is it correct that owing to your being a stenographer you are utilized from time to time by the Department of Police to attend the various kinds of meetings, all different sorts of meetings for the purpose of taking the words there uttered?

A Yes.

Q Now, you said that your speed depended upon the subject matter?

A Yes.

Q Do you mean by that that if you had to attend some meeting where technical terms were used, in science, for instance,

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that it would not be as easy to take your minutes as it would be where the words of ordinary significance were used?

A That is correct, and also in the case of Miss Goldman speaking, I judge she spoke at the rate of about one hundred words a minute. She might have exceeded that at times and spoke at a rate of one hundred and twenty-five words a minute. She had to speak kind of loud, and naturally she spoke somewhat slower in order to be heard.

Q Now, except at that meeting, for those names of persons like the names of Senators, or the name of this Russian, which was referred to, and the occasional noise around you, except those instances, did you have any difficulty in taking what was said?

A No, sir.

Q No difficulty at all?

A No, sir.

~~THE COURT: you had some more questions, Mr. Berkman.~~

~~MR. BERKMAN: Yes.~~

BY MR. BERKMAN:

Q Have you ever been assigned to very important meetings, like conventions, or such, which require experts?

A No, sir.

Q Have you a reputation as an expert stenographer?

A No, sir.

Q What is the average of your writing?

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~~MR. CONTENT: He has answered that already.~~

~~I take it you mean how many words a minute.~~

~~MR. BERKMAN: I mean an average.~~

~~MR. CONTENT: What?~~

~~THE COURT: How many words a minute, you mean?~~

~~MR. CONTENT: He has answered that already.~~

A About 100 or 125 a minute.

Q And you say Miss Goldman speaks at the rate of about one hundred?

THE COURT: He said at one hundred. She spoke, I understood him, generally at the rate of one hundred words a minute, because there was a big crowd, and she spoke distinctly and slowly. Is that correct?

THE WITNESS: Yes.

Q You are not aware that Miss Goldman occasionally uses Russian names, or refers to Russians, that you might not understand -- or, I will put it differently -- were there Russian names mentioned you did not understand?

A Yes.

Q What was the reason you did not take down the names of the Congressmen mentioned?

MR. CONTENT: Senators.

Q Senators and Congressmen.

A I did not understand the names.

Q You did not understand the names of the Congressmen and

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Senators?

A No, sir.

~~Q There must have been references to Russia, that you would not understand?~~

~~THE COURT: That is too hypothetical.~~

Q You also said that Miss Goldman spoke very distinctly, loud and slowly?

A Yes.

Q And that you did not understand the names of the American Congressmen?

THE COURT: No, American Senators.

MR. BERKMAN: Or Senators.

A No, sir.

THE COURT: Are the names you spoke of American names?

MR. CONTENT: LaFollette is not an American name.

THE COURT: LaFollette is not an ordinary name.

Q Would you be able to understand the name, a name like LaFollette, and be able to write it down quickly?

A If I heard it distinctly, yes.

Q I mean are you sufficiently familiar with public questions to be able to understand the literature without the language of the layman -- and social questions?

MR. CONTENT: No, that has not a thing to do with it.

THE COURT: That is too hypothetical.

MR. CONTENT: I want to call to the Court's attention

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to the fact that where he could not get the Russian names, he put a couple of letters, and could not finish it.

Q You know Senator LaFollette plays quite an important role in this country, so that you see his name quite often in the papers?

A Yes.

Q And the names of Senators would not give you any difficulty, so far as that is concerned?

A Well, it all depends on how well I understand the name when it is spoken. If it was a name I was familiar with, it would be easier to understand that name when it was spoken.

Q If the speaker speaks distinctly, slowly, and loudly, why should you have any difficulty in taking down what she said.

MR. CONTENT: I object. That is argumentative.

THE COURT: He may answer it.

A At that meeting those names I mentioned, were spoken rapidly, to the best of my recollection, and for that reason I think I could not understand them distinctly.

Q That particular name was spoken rapidly?

A The names were spoken rapidly.

Q Is it not more natural that a speaker would speak names rather more distinctly than ordinarily?

MR. CONTENT: He does not claim he is a public orator, like Mr. Berkman.

MR. BERKMAN: But he has attended mass meetings.

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THE COURT: That question is argumentative.

Objection sustained. You never can tell. Sometimes some people mention them slowly, others quickly.

Q But, I mean it is rather unusual that you are not able to take down the names of American Senators?

MR. CONTENT: That is argumentative.

THE COURT: That is argumentative. Sustained.

Q And you were also not able, naturally, to take down the names of Russians?

THE COURT: He said that several times.

MR. CONTENT: If he can spell ~~Breshkovskaya~~, he should get a medal.

Q There may have been references to Russia which would have been difficult for you to understand and take down?

THE COURT: No, the question should read "outside of what you do indicate you did not take down, was there anything else you did not take?"

MR. BERKMAN: I mean that the Russian names being mentioned, necessarily there must have been references to Russia. These Russian names are Russian revolutionists.

THE COURT: Well, it says, in the transcript, something or other like "Als".

THE WITNESS: With reference to Russia.

Q You did not take down anything referring to Russia.

MR. CONTENT: That is not a fair question.

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Q Did you take down everything referring to Russia?

A I think I did, yes.

Q Everything?

A I think I did, yes.

Q No names?

THE COURT: He says he did not take those names.

MR. CONTENT: There is only one in the whole transcript.

THE COURT: Well, that name. I don't know what it is myself yet.

Q There might have been other Russian names mentioned?

A At that time?

Q Yes.

A There might have been, but I understood it to be one name. I think it was one name, and I could not understand that name.

~~MR. CONTENT: It is enough for a whole family.~~

BY MISS GOLDMAN:

Q Will you please tell us of the three examinations for shorthand, stenography, you have taken? What were these examinations?

A Regular shorthand examinations, held by the Municipal Civil Service Commission of this City, for the position of stenographer and typewriter.

Q Did you require three different examinations?

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A No, I have taken three different examinations of the same kind, at different times.

Q I see.

A When the list expired, I took another examination. When that list expired, I took another examination.

BY THE COURT:

Q Was that before you came into the Police Department?

A Yes, I think I took one while I was in the Police Department, the third one -- I think I was in the Police Department before I took that one.

Q What is that, the position of stenographer and typewriter to a public department?

A In the City service.

Q In the City Service?

A Yes.

BY MISS GOLDMAN:

Q Please tell us whether you have ever reported in court?

A No, I have not.

~~MR. CONTENT: He could not very well. They only have official stenographers in court.~~

~~THE COURT: Well, he says he has not.~~

Q You stated that at the meeting you were on the balcony in the back of the boxes?

A Yes.

Q You were standing on a table?

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A Yes.

Q But you also said, I believe, that the meeting began about half past eight, or a quarter to nine, and that the defendant, Miss Goldman, spoke at length. How long, approximately, do you think she spoke at that meeting?

THE COURT: The transcript of the minutes containing his memorandums, has the beginning and the end. I don't know whether you saw it.

A My transcript shows she started to speak at 9:45 and had completed at 10:15 P.M.

Q That means three quarters of an hour?

A That means one half an hour.

Q I beg your pardon. You were standing on the table. Did you have any kind of support while you were standing on that table?

A Why, the table was one of those round tables, and the table was against the wall, and I was leaning against the wall at times.

Q You were leaning against the wall?

A Yes.

Q How far back into the box?

A Why, the table I was standing on was about, I think that is about twelve or fifteen feet. The wall is about fifteen feet from the rear of the boxes in the balcony.

Q Now, would you please tell the Court -- or rather, I

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think it is permissible to demonstrate how you held your book, and how you were taking your notes, while you were standing at the back of the wall?

A Why --

THE COURT: Just get up.

A In this manner (indicating), and at times I was leaning against the wall.

Q And you held your notebook in your hand?

A Yes.

Q And for half an hour?

A Yes.

Q And were taking notes during all that time?

A Yes.

Q And listening carefully to what I had to say during that half hour?

A Yes. And I had a copy of The Blast, and some other pamphlets, underneath my book, at the time, which I purchased at the meeting.

Q Now, is it possible that while you were taking these notes, standing up, without having a support for your book, that during that half hour, while you were taking the notes, is it possible, do you think, that something might have escaped you from the speech delivered by Emma Goldman that evening, of May 18th?

A Yes, as I stated before, I could have missed a line, or

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a few lines, when people were coming and going. There were constantly people going and coming at the place where I was standing, but I have taken the substance of your speech at that time.

Q The substance?

A The substance, yes.

Q Then, will you tell us how it happens that you did not take such a distinguished American name as Senator Stone?

~~MR. CONTENT: That has already been gone into by Mr. Berkman.~~

~~THE COURT: He may answer.~~ X

A Because, as I stated before, I think, to the best of my recollection, at that time, she mentioned those names rapidly, and I did not clearly understand them, and if I would have, I would have certainly made a note of them.

Q Now, in taking the substance of my speech, as you said, a great deal must have escaped you?

MR. CONTENT: I object to that. That is not a fair question.

THE COURT: Objection sustained. How much did you miss, do you think?

THE WITNESS: Why, I don't think I missed very much. I might have missed a few lines here and there, as the people were coming and going, and during the noise, and the talking and the like of that.

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Q I see. Then you took down what you thought was the substance of the speech?

A I took down what I heard you say, what I could hear and understand you say.

Q You took down everything, as far as you were able?

A To the best of my ability.

Q What I said?

A Yes.

Q During the half hour?

A Yes.

Q Just one more question. I would like to ask you then do I understand you to say that your notes, your stenographic notes do not represent an exact record of the speech delivered by Emma Goldman on May 18th at the Harlem River Casino?

A They represent everything that I heard you say, and everything that I could understand you say.

Q One more thing, and that is, did I understand that you transcribed these notes three days later?

A Yes.

Q The notes were taken on Friday?

A Night.

Q Friday night, and you transcribed them when?

THE COURT: On the 21st, he said.

A May 21st.

~~MISS GOLDMAN: That is all.~~

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REDIRECT EXAMINATION BY MR. CONTENT:

Q Did you take down there all you could hear and understand Miss Goldman said?

A I did.

Q You don't mean you just took down here and there the substance of her speech?

A No, sir.

Q Is there any question -- will you look at your notes with me -- is there any question that you heard her use these words, "We believe in violence and we will use violence"?

A No, sir, there is no question about that.

Q Did you hear her say that?

A I did.

Q Have you the recollection independent of your notes, that she used those words?

A Yes.

Q I will read you this, one paragraph further -- no, perhaps two paragraphs further, "It will not be such an easy job, and it will compel the Government to sit up and take notice, and therefore, we are going to support, with all the means at our support, with money and publicity -- we are going to support all the men who will refuse to register, and who will refuse to fight". Do you now say she used the words, "who will refuse to register"?

A Yes, sir.

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Q Is it likely you would have confused any other word with the word "register"?

A No, sir.

Q "Conscription" don't look very much like "registration" in shorthand, does it?

A No, sir.

Q Two paragraphs further down, "We will have a demonstration of all the people who will not be conscripted, and who will not register". See if you can find that?

A Yes.

Q Could you have confused those words, "Who will not be conscripted and who will not register", with anything else?

A No, sir.

Q Have you any independent recollection that Miss Goldman used the word "register" or "registration" during the speech, — independent of your stenographic notes, that is?

A I have.

RECROSS EXAMINATION BY MR. BERKMAN:

Q You realize you are testifying under oath?

A I do.

Q And you are sure that Miss Goldman said, "We believe in violence and we will use violence"?

A I am.

Q And the police took no action in the matter?

A I don't know.

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Q Were the police there?

A I was not near Miss Goldman enough to see if they did or not.

Q You don't know whether the police took any action in preventing that meeting, as it were?

A I don't know whether they did or not.

Q She was permitted to continue the speech?

A Yes.

Q Secret service men were there?

~~MR. CONTENT: They were not.~~

A I don't know.

Q I am asking. Were the police there, so far as you know?

A I think so.

Q Were detectives there, as far as you know?

A I think so.

Q And they permitted Miss Goldman to continue her speech?

A Yes.

~~MR. BERKMAN: That is all.~~

THE COURT: Just write on this piece of paper, write in shorthand "register". (Witness writes)

Now, in the middle of the line, write "conscription". (Witness writes)

And now, the last word, write "violence". (Witness writes).

BY THE COURT:

Q Now, this is "register"?

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A Yes.

Q And this is "conscription", is that right?

A Yes.

Q And this is "violence", is it?

A Yes.

THE COURT: Now, let this be marked.

MR. CONTENT: I will offer that in evidence, as Government's Exhibit No. 32.

(Marked in evidence as Government's Exhibit No. 32).

THE COURT: Now, let that be shown to the stenographer for the defendants, and have him show it to the Court stenographer.

MR. CONTENT: Will the Court make a note that Mr. Hawthorne says that they are all distinct, that there is no similarity between the three at all.

THE COURT: Yes.

~~MR. CONTENT: Now, have you finished with this witness, your Honor.~~

~~THE COURT: Yes.~~

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UNITED STATES

vs.

BERKMANN and GOLDMAN.

C H A R L E S P I C K L E R, a witness called on behalf
of the Government, being duly sworn, testified as
follows:

DIRECT EXAMINATION BY MR. CONTENT:

Q You are a member of the bar of the State of New
York?

A Yes.

Q A member of the Federal bar also?

A Yes.

Q You are also by occupation a shorthand reporter?

A Yes.

Q You have had some experience taking down reports of
meetings and public hearings, and so forth?

A Yes.

Q At the request of the No-Conscription League, or the
defendant, Alexander Berkman or Emma Goldman, did you take
and transcribe the speeches delivered at the Hunts Point
Palace, Borough of the Bronx in the City of New York on the
4th day of June, 1917?

A No, sir.

Q At whose request did you take them?

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A The S. S. Company.

Q That is the Stenographic Service Company?

A Yes.

Q 55 Liberty street?

A Yes.

Q You are an outside stenographer?

A I am a public shorthand reporter.

Q And they asked you to take them down?

A Yes.

Q Did you take down in shorthand the speeches, the speeches of all the speakers at that meeting at the Hunts Point Palace on the Southern Boulevard, in the Borough of the Bronx, on June 4th, 1917?

A I took down all those who spoke in English.

Q Well, none of them spoke in any other language, did they?

A I don't think so, I don't believe so.

~~MR. CONTENT: They did not.~~

Q Did you take the speech in shorthand of Leonard D. Abbott?

A I did.

Q Did you take the speech of the first speaker, Howard H. Hutchinson?

A I did.

Q Did you take the speech of ^{Mr.} ~~Miss~~ Ballantine?

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A I did.

Q Did you take the speech of Mr. Peter Kane, Jr.?

A I did.

Q Did you take the speech of Alexander Berkman?

A I did.

Q Did you take the speech of Miss Emma Goldman?

A I did.

Q She was the last speaker, wasn't she?

A Yes, sir.

Q From time to time did you take the introductory remarks of the Chairman in introducing a speaker?

A I did.

Q I show you a transcript of the meeting of the No-Conscription League found in the headquarters of the No-Conscription League on the date of the arrest, and I ask you whether you have compared that transcript with the stenographic notes taken by you of the speakers at the Hunts Point Palace meeting on June 4th, 1917?

A Yes.

Q Is that an accurate transcript to the best of your knowledge and ^{belief} ability of the stenographic notes taken by you of the minutes of the speeches of that meeting?

A It is an accurate transcript.

MR. CONTENT: I offer this in evidence, I offer

the entire transcript in evidence.

(Received in evidence and marked Government's Exhibit No. 33)

The Emma Goldman Papers

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CROSS EXAMINATION BY MISS EMMA GOLDMAN:

Q You are an expert stenographer, are you?

A I am a shorthand reporter, Miss Goldman.

Q And may I ask you how long you have been taking shorthand?

A About twenty-five years.

Q May I also ask you whether you have taken shorthand notes at meetings similar to the character of the Hunts Point Palace?

A I have.

Q In your estimation, Mr. Pickler, is it possible for a stenographer to take notes standing up during half an hour without supporting his book?

MR. CONTENT: I don't want to appear technical, but he has not testified that he took them standing up. He is only called as to this testimony in taking the speeches at the direction of the S.S. Corporation, and that that is an accurate transcript of the speeches he took down; but that don't make him an expert on the part of the Government --

THE COURT: I think that is correct.

MR. CONTENT: I would not then want to cross examine him, I wouldn't want to impeach my own witness.

THE COURT: I will sustain the objection without

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prejudice to recalling him, when the defendants' case is presented, if there is any.

(Consultation between Court and witness).

THE COURT: Mr. Pickler tells me that he is very busy, so I will let him answer it now. Of course, the answer binds the defendants.

BY THE COURT:

Q Were you here when Mr. Randolph stood up?

A Yes.

Q Did you see how he held his book?

A Yes.

THE COURT: All right then, you may answer.

THE WITNESS: Have you finished your question, Miss Goldman?

MISS GOLDMAN: Perhaps I will repeat the question.

BY MR. MISS GOLDMAN:

Q Standing up on a table, without a support for the book to lie on, other than the hand, of course, do you think it is possible to take accurate notes of what the stenographer would hear, of course, during a half hour?

A May I ask, Miss Goldman, what kind of a book he had, what sort of a cover it had? May I ask what speed the young man testified he could write at?

MR. CONTENT: 100 words a minute on the average.

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MR. RANDOLPH (Standing up): I was standing like this (exhibiting book).

THE WITNESS: 100 words a minute?

MR. RANDOLPH: Yes.

A No.

MR. CONTENT: I don't care to cross examine him now. I may recall him after. He is the defense's witness.

THE WITNESS: I tell you that is perfectly absurd. Miss Goldman speaks 200 words a minute.

MR. CONTENT: Now, this witness is plainly prejudiced.

THE WITNESS: I am not prejudiced at all.

MR. CONTENT: I am talking to the Court, not to you. This witness knows all about Miss Goldman, and --

MR. BERKMAN: I object to Mr. Content trying to, --

THE COURT: Yes, objection sustained.

MR. CONTENT: I don't care to cross examine him.

THE COURT: Very good.

MR. CONTENT: I will now read the Blast. Will your Honor instruct the jury that the last witness, in the question that was asked by Miss Goldman, was not my witness, and it was not part of the Government's case?

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THE COURT: Yes, they are so instructed.

(Reading of exhibits to the jury by Mr. Content.)

E S L I L. S U T T O N, called as a witness on behalf of the Government, was first duly sworn and testified as follows:

DIRECT EXAMINATION BY MR. CONTENT:

Q You are an official stenographer in the United States Court for the Southern District of New York?

A I am.

Q How long have you been a shorthand reporter?


A About twenty years.

Q At the request of the United States Attorney for the Southern District of New York, did you attend a meeting held at the Hunts Point Palace, in the Borough of the Bronx, New York City, on the 4th day of June, 1917?

A I did.

Q Did you take stenographic notes of the speeches of the speakers on that evening?

A I did.

 Q You have since examined the stenographic transcript of the S.S. Company, which I gave to you -- is that correct?

A Yes, sir.

Q And have compared it with your stenographic notes?

A I have.

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Q And is it an accurate transcript of your stenographic notes?

A It is, except in some small minute details, where we were unable to hear.

Q Well, Mr. Pickler, was a little nearer than you were?

A He was.

Q You took down the speeches to the best of your knowledge and ability at the time?

A I did.

Q And there was some little confusion from time to time around the place which drowned out the last words of the sentences -- something of that sort?

A Yes, and during sentences, at times.

BY THE COURT:

Q But, outside of some such minor details, this Government's Exhibit 33 is a correct transcript?

A Yes, it is a correct transcript of what was said there.

~~MR. CONTENT: Do you want to cross examine?~~

~~MR. BERKMANN: No.~~

~~MR. CONTENT: Just a moment, I want to ask one question.~~

~~BY MR. CONTENT:~~

Q You took Miss Goldman's speech that evening, did you?

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A Yes.

Q About how many words a minute did she speak?

A Well, I should judge she ran about 100 or 110 words a minute. She is not a fast speaker in a hall of that kind.

Q She has a very loud and resonant voice?

A She has.

Q Is she an easy person to report stenographically?

A She is, yes.

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G E O R D E D . B A R N I T Z , a witness called on behalf of the Government, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. CONTENT:

Q You are a detective sergeant, connected with the City Police Department?

A Yes.

Q Attached to what squad?

A The bomb squad.

Q How long have you been a police officer?

A Twenty-one years.

Q What is your shield number?

A 438.

Q Were you present at the time that the United States Marshal, McCarthy, arrested the defendants Alexander Berkman and Emma Goldman?

A I was.

Q What date was that?

A The 15th of June, about four o'clock in the afternoon.

Q Where?

A 20 East 125th street.

Q Were you there when the Marshal arrested Miss Goldman?

A I was.

Q Who was arrested first, Miss Goldman or Mr. Berkman?

A Miss Goldman was arrested first.

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Q Where was she arrested?

A On the second floor of 20 East 125th street.

Q How much later was it when Mr. Berkman was placed under arrest by the Marshal?

A About two minutes later.

Q Where was he arrested, if you know?

A On the floor above, the same building.

Q At the time did you have any conversation with Miss Goldman?

A I did.

Q To what did it refer?

A Referred to the publication called Mother Earth.

Q I show you a copy of the Mother Earth, with "G. D. Barnitz" written on it in ink, and ask you whether or not you used that copy in having a conversation with her?

A I did.

Q What was the conversation?

A I asked Miss Goldman what she, who was the Mother Earth Publishing Company, and whether it was incorporated or not, and she said it was not, she said I am the publisher and editor of Mother Earth, and I am responsible for everything that is in it. I then took a piece of paper I had in my hand, that document addressed to Mr. Content, United States Assistant District Attorney --

Q I show you a letter and envelope addressed to Mr. H. A.

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Content, United States Assistant District Attorney, dated June 8, 1917, signed "Alexander Berkman and Emma Goldman", and ask you whether that is the paper to which you have reference?

MR. CONTENT: First, I would like to offer in evidence the particular copy of Mother Earth which Mr. Barnitz used in speaking to Miss Goldman.

(Marked in evidence as Government's Exhibit No. 34).

A I showed this paper to Miss Goldman, and asked her was she responsible for that document being sent to Mr. Content. She read it and she said, "I was". I said, "Did Mr. Berkman arrange that with you", and she said, "Mr. Berkman and I sent this document to Mr. Content together".

I then took the document upstairs to where Mr. Berkman was, and showed it to him, and asked him whether he knew anything about this being sent to Mr. Content, and was it done by his direction, and he said, "It was by me and Emma Goldman; we sent this to Mr. Content together."

Q Did you make a notation to that effect on the back of the paper?

A I did.

MR. CONTENT: I offer this in evidence, as Government's Exhibit No. 35, the ^{letter} ~~paper~~, and ^{the envelope} ~~Mother Earth~~, 35-A.

THE WITNESS: At the same time I asked Mr. Berkman if there was anybody else associated with him in the publication called The Blast, and he said there was not, that he

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was the editor and publisher of the Blast.

Q I show you this copy of The Blast, with your name, G. D. Barnitz on, and I ask you did you have this paper in your hand, is that the paper ^{JK} you had in your hand when you talked to Mr. Berkman?

A That was the one.

MR. CONTENT: I offer this in evidence.

(marked in evidence as Government's Exhibit No. 36).

Q Now, at the time of the arrest, pursuant to the direction of the Marshal, various articles of literature, etc., were taken from the premises, is that correct?

A They were.

~~MR. CONTENT: Now, would you step down just a moment.~~

~~MR. BERKMAN: May the defense have that letter read to the jury.~~

~~MR. CONTENT: Yes, I will read it.~~

~~THE COURT: It will be read.~~

~~MR. CONTENT: I just want to reserve that for a moment, in order to finish with the witness, before the noon recess. Is that agreeable to your Honor.~~

~~THE COURT: Yes, certainly.~~

~~MR. CONTENT: I have not read the minutes of the Hunt's Point meeting. I am reserving those.~~

May I recall Mr. Sutton for one question I forgot to ask.

THE COURT: Certainly. Yes.

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E S L I L. S U T T O N, recalled.

DIRECT EXAMINATION BY MR. CONTENT:

Q Is it possible that if a person is speaking at the rate at which Miss Goldman speaks, you having heard her speak, ^{He can} take a report of general ordinary stenography on his book, standing up, provided there are some magazines underneath?

A Why, certainly. That is how the reporting in the Congress of the United States is done, standing up. I have reported many meetings standing up.

~~MR. CONTENT: It is not as easy as if you were sitting down.~~

Q I show you this, this is a regular stenographic reporting book?

A Yes.

Q And if this were supported by a couple of magazines, or something, would it be possible to take down the minutes of a speaker at the rate Miss Goldman speaks, standing up?

A Yes, it is done every day.

Q And done accurately?

A Yes, it is done every day.

BY THE COURT:

Q Now, you refer to a matter in Congress, when the different members of the House of Representatives are talking,

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and similarly in the Senate -- is it not a fact that the stenographer is standing up all the time in taking his notes?

A Yes, it is.

Q He goes usually near where the speaker is speaking?

A Yes, walks from where he was at the time the speaker arose, over within a good range of hearing.

Q And, as Congressman A finishes, and Congressman B commences, he walks over here (indicating) so as to be near the second speaker?

A Yes.

Q And that is a fairly familiar method in the Senate?

A Done, as I say, every day.

CROSS EXAMINATION BY MR. BERKMAN:

Q You do not mean that the stenographers in Congress stand up for any length of time -- for instance, a half an hour on a table?

A I mean there is one man on his feet.

Q You don't mean, -- just to clear up this matter of the stenographers standing up in Congress -- you don't mean the stenographers would be in a similar position in Congress as Mr. Randolph was at this meeting, at this crowded mass meeting, with a lot of noise, on a table, with the crowd all

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around him?

A Well, no, Congress is not a mass meeting, of course, and it is orderly.

Q You do not mean also, that the stenographer in Congress would stand up for half an hour without a chance to move, and still take absolutely correct notes, without shifting his position for half an hour?

A Why, I think so.

Q He would stand, without shifting his position, and holding the book in his hand?

THE COURT: The question is "could he?"

A He could.

Q He could stand half an hour, and yet not be sufficiently tired to miss words, and have his notes partially incomplete?

A I think it would be perfectly feasible and practicable to report Miss Goldman, standing up for half an hour or an hour.

MR. BERKMANN: I am talking now about Congress.

MR. CONTENT: What do they do in Congress -- tell him.

Q No, I mean, would it be possible for a stenographer to stand up on a table in a crowded hall for a half an hour, even for a longer time -- I forgot to ask Mr. Pandolph how he stood up -- however, half an hour during one speech, with-

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cut a chance to shift his position, and still take down accurate notes, and the stenographer not being an expert?

MR. CONTENT: That is not a fair question.

THE COURT: That is not proper. You can ask this:

From your experience, do you think it would be possible for a competent stenographer to take a speech from 100 to 125 words a minute, standing on a table for half an hour, sometimes standing without support and sometimes standing supported by the wall back of him.

A I should think so, yes.

Q Is it not a fact that the Congress' stenographers change their positions very often if they are forced to stand while they are taking their notes?

A Well, that is a matter of a man's own inclination.

Q Is it not a matter of physical necessity, say, in order to keep the notes correct?

A Why, I don't think so. I don't know. That is for every man to say.

Q Did you ever take stenographic notes in Congress?

A Did I ever?

~~MR. CONTENT: He says he did.~~

~~THE WITNESS:~~ No, not in Congress.

BY MR. CONTENT:

Q You have seen it done?

A I have been there and seen it done.

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Q And some of the Congressmen often make a lot of noise, don't they?

A Yes.

CROSS EXAMINATION BY MISS GOLDMAN:

Q Please, Mr. Sutton, tell us, since Congress was mentioned, whether it is not a fact that the stenographers in Congress have their table to write on?

A Well, they have a table, but most of the reporting is done standing up.

Q Just a moment. Isn't it a fact that the stenographers stand up only during the time when they are relieved by another stenographer?

A No, that is not the method.

Q Did I understand you to say you had reported Congress?

A No.

MR. CONTENT: No, he did not. He said he had been there.

THE WITNESS: I worked at one time for Mr. Murphy.

BY MR. CONTENT:

Q For whom?

A Mr. Murphy.

Q That is the United States Senator from New York?

A No, no, the Official Reporter of Congress.

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BY MISS GOLDMAN:

Q How long a time, approximately, do you think the stenographers in Congress stand up to take notes?

A Why, I can't tell you that -- from fifteen minutes to half an hour, three-quarters of an hour.

Q Without using a table?

A Yes.

~~MISS GOLDMAN: That will do, for the present.~~

~~THE COURT: That is all, Mr. Sutton.~~

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G E O R G E D . B A R N I T Z , resumed the stand.

DIRECT EXAMINATION CONTINUED BY MR. CONTENT:

Q I show you the contents of this tray in my hand, and ask you in whose office these were found?

A These were found in the office of Alexander Berkman on the third floor of 20 East 125th street.

Q And have you affixed tags to each one of the things which are contained in this tray?

A Each package was marked.

MR. CONTENT: After lunch I will offer in evidence the different contents of this tray, but would the stenographer make a record at this time that this tray here is tray No. 1.

THE COURT: Say Berkman tray.

MR. CONTENT: Berkman tray, yes.

Q Now, I show you a second tray, and ask you where the contents of this tray were found?

A In the rooms occupied by Mother Earth and the defendant Emma Goldman.

MR. CONTENT: That may be called the Goldman tray?

THE COURT: Yes.

Q I show you an additional bundle, containing a number of copies of the June issue of Mother Earth, and ask you where these were found?

A In the office of the defendant Emma Goldman.

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THE COURT: Call that Mother Earth bundle.

Q I show you an additional bundle, of the July 1914 issue of Mother Earth, and ask where these were found?

A In the office of the defendant Emma Goldman.

MR. CONTENT: That is the July 1914 issue.

THE COURT: Call that second bundle, July 1914 Mother Earths.

Q I call your attention to a wooden box containing a number of wrappers, some stamped and addressed, others not yet stamped, and ask you where those were found?

A In the office of Mother Earth, with the defendant Emma Goldman.

THE COURT: Call that, Wooden Box.

Q I show you a leather suit case, light brown leather, containing similar wrappers. Is that same testimony true as to all this as to the wooden box?

A The same thing in regard to the dress suit case, and a second dress suit case.

Q A second, bigger dress suitcase?

A The large dresssuit case.

Q They contain wrappers with some publication enclosed, which is concededly Mother Earth, and they were all found in the premises of Mother Earth, or Miss Goldman?

A Yes, that is right.

~~MR. BERKMAN: I want to ask one question.~~

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BY MR. BERKMAN:

Q Mr. Barnitz, when you asked Miss Goldman whether she was the editor and publisher of Mother Earth, did she answer frankly?

A Yes.

Q And when you asked Mr. Berkman whether he was the editor and publisher of The Blast, did he answer frankly?

A He did.

Q Did the defendants attempt to resist arrest?

A They did not.

~~MR. BERKMAN: Before lunch, I would like you to direct that the stenographic notebook of Mr. Randolph be impounded as evidence.~~

~~MR. CONTENT: It will be. But that is not necessary. I will keep it here.~~

~~THE COURT: It is in the custody of the court.~~

~~MR. CONTENT: It has been marked for identification.~~

~~MR. BERKMAN: It is in the custody of the court!~~

~~THE COURT: Oh, yes, there is no trouble about that. By the custody of the Court, it does not mean the physical custody, but it is the duty of the District Attorney to keep it here at all times during the trial. You understand the Government has nothing to hide. Everything will be kept here.~~

~~MR. BERKMAN: Nor the defendants.~~

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MR. CONTENT: Will the stenographer note at this time that I offer all the contents of these trays, and box in evidence, to be marked later.

THE COURT: We will take a recess at this time until five minutes past two.

(Recess until 2:05 P.M.)

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A f t e r n o o n S e s s i o n .

(2:05 P.M.)

G E O R G E D . B A R N I T Z , resumed the stand.

~~MR. CONTENT: I see no objection in the clerk marking these exhibits while Mr. Berkman is not here.~~

~~MISS GOLDMAN: May I ask the Court if we will have full opportunity to look over the exhibits in evidence.~~

~~THE COURT: Oh, certainly.~~

~~MR. CONTENT: Everything.~~

~~THE COURT: You may mark them, and remark them when he comes back. Mr. Berkman is here now. Now you may mark them. Let the stenographer take it for the record.~~

MR. CONTENT: Government's Exhibit No. 37 is a package of the June issue of Mother Earth, in the Berkman tray.

60 [Government's Exhibit No. 38, is a collection of form letters, similar to Government's Exhibits 4, 5 and 6, which have already been read to the jury.

Government's Exhibit No. 39, is a number of letters stamped and postmarked, similar to Government's Exhibit No. 10, which is a letter to Frank Harrison, duly sent through the mails, but returned to the sender.

Government's Exhibit No. 40, is a bundle of papers entitled, "Free Speech and Free Press", by Harry Weinberger, of the New York Bar.

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Government's Exhibit No. 41, is a number of copies of the June issue of TheBlast, similar to Government's Exhibit No. 26.

Government's Exhibit No. 42 is a bundle of addressed envelopes, but not stamped, with "The Blast" in the upper left hand corner. They are of no particular consequence.

Government's Exhibit No. 43 is a bundle of leaflets announcing a meeting on June 23rd, entitled, "Labor and War".

Government's Exhibit No. 44 is a leaflet entitled "McKinley's Assassination, from the Anarchists' Standpoint",

Government's Exhibits Nos. 45 and 45-A, are the original and carbon copy of the copy of a handbill, for an open air demonstration at Madison Square Garden on June 16, the original and carbon copy.

Government's Exhibit No. 23 for identification is now offered in evidence as one of the things found. It is a circular letter of The Blast.

(Received in evidence as Government's Exhibit No. 23).

MR. CONTENT: This is a circular letter of June 15, on the letterhead of TheBlast.

Government's Exhibit No. 46, is a leaflet entitled "Workingmen, why should we fight?"

Government's Exhibit No. 47 is a copy of a bill of the Walker Engraving Company, with a copy of the cartoon

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found in Berkman's possession.

Government's Exhibit No. 47-A, is a copy of a cut.

Government's Exhibit No. 48, is a copy of a bill of the Walker Engraving Company, with a copy of the cut of Mother Earth.

That is the contents of the Berkman Tray.

Now, this is the Goldman tray.

MR. BERKMAN: May I ask the Court, does all this go in as evidence in this particular case?

THE COURT: I am sure I do not --

MR. CONTENT: Yes, it is offered in evidence. It was found in the custody of the respective defendants, at the time of their arrest.

MR. BERKMAN: Well, the defense admits everything in their possession, in the office of the magazines, the various publications, and all that. That is all admitted.

MR. CONTENT: Well, I have to have them marked.

THE COURT: They were all offered and received without objection before the recess. Now, if there is any particular one of these exhibits that you object to, I will take it up. I am going to exclude, on my own motion, this pamphlet by Harry Weinberger. I do not see that that has anything to do with the case.

~~MR. CONTENT: I don't think so either.~~

~~THE COURT: From my point of view, it is not very in-~~

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~~structure, either.~~

MR. BERKMAN: May we object. to certain documents being put in there.

THE COURT: Certainly.

MR. CONTENT: Certainly.

MR. BERKMAN: Which ones may we object to?

MR. CONTENT: Which ones do you want to object to?

MR. BERKMAN: I don't think there is any number.

MR. CONTENT: Will I read them all over?

I withdraw the offer of the pamphlet of Harry Weinberger.

THE COURT: All right.

MR. CONTENT: And move that it be stricken out of the evidence.

THE COURT: Yes, strike it out.

Now, there is another pamphlet, Mr. Content, Exhibit 44, which I have just been examining.

MR. CONTENT: Do you want to exclude that?

THE COURT: "McKinley's Assassination from the Anarchist's standpoint", I will exclude that.

MR. BERKMAN: May I ask the Court who is the author of that?

MR. CONTENT: It is not named.

THE COURT: He is not named.

~~MR. BERKMAN: It is something which has no bearing on the case at all.~~

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THE COURT: I was going to exclude it on my own motion, because there is nothing to show that the defendants were responsible for this paper, and it may have been found in anyone's possession.

Government's Exhibit No. 44 is excluded. I think that is all you offered, outside of the matters pertinent to the case.

MR. CONTENT: Yes, the other things are all Mother Earth, or The Blast, in the nature of exhibits already in evidence.

THE COURT: Just strike out Exhibits 44 and 40.

~~MR. CONTENT: The Court will understand I did not want to conceal from the Court such an excellent article as Mr. Weinberger's.~~

~~MR. BERKMAN: I don't think I have ever even read Mr. Weinberger's pamphlet.~~

~~MR. CONTENT: You missed something.~~

6 [This is in the tray Emma Goldman. A number of copies of the June issue of The Blast. I think we can cut down here on these three different sets of form letters, and that will save time.

THE COURT: Yes, those are form letters.

MR. CONTENT: Government's Exhibits 50, 50-A and 50-B, are copies of form letters similar to Government's Exhibits 4, 5 and 6, already read to the jury.

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~~THE COURT: I notice they are not very expensive,~~
~~only five cents apiece.~~

~~MR. CONTENT: Pretty cheap legal advice.~~

These are some subscription blanks for the No-Conscription League, similar to those annexed to some of the letters which have already been marked in evidence, which are blank blanks. The same will be Government's Exhibit No. 51.

Government's Exhibit No. 52, consists of some pamphlets marked, "Labor and War", announcing a meeting on June 23rd.

Government's Exhibit No. 53, consists of a few manifestoes similar to Government's Exhibit 1.

Government's Exhibit No. 54 is a large bundle of the June issue of Mother Earth. Give it one number.

Government's Exhibit No. 55 for identification, not offered in evidence, the July, 1914 issue of Mother Earth, merely marked for identification. That is a bundle.

And the last exhibit, Government's Exhibit No. 56, that is the last number I offer, all the contents of the wooden box and the suitcase, containing the June issue of Mother Earth, wrapped up in a newspaper wrapper.

THE COURT: That is all that contains?

MR. CONTENT: Yes. Shall we give it one number?

THE COURT: Yes.

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(Marked Government's Exhibit No. 56).

MR. CONTENT: That is a large number of Mother Earths ready for mailing, in the wrappers.

~~Do you want to cross-examine Mr. Barnitz any more?~~

~~MR. BERKMAN: No, we want to recall Mr. Randolph.~~

~~THE COURT: Do you want to examine Mr. Barnitz any further?~~

~~MR. BERKMAN: No.~~

~~MR. CONTENT: This is further recross examination.~~

~~THE COURT: Yes, recalled for further recross examination.~~

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W I L L I A M H . R A N D O L P H , recalled.

RECROSS EXAMINATION CONTINUED BY MR. BERKMAN:

MISS GOLDMAN: If it please the Court, we would like to know if we may ask at this point to have Mr. Randolph get up on the table, as nearly in the position as he was at that meeting, and whether we may further offer dictation to Mr. Randolph to take from Mother Earth, or any number of Mother Earth, or offer dictation for him to take as he would have taken it and did take it at that meeting. Is this how we do it now, and how will the Court instruct?

THE COURT: Well, I am perfectly willing he should do that. It is hardly practicable to get on the table. He can stand up.

MR. CONTENT: He can stand against the wall. There is a little platform there. He can stand there. ~~I hate to see the Government's furniture injured.~~

~~MISS GOLDMAN: We would not injure the furniture. I don't think we want to injure ourselves.~~

~~THE COURT: Yes, that is a little personality.~~

BY MISS GOLDMAN:

Q Was that a round table or a square table?

A A round table.

Q May we also ask was the table firm, like you are standing, or was it shaky?

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A It was not fastened, it was firm.

Q Well, you think then if you stand up you are nearly in the position you were at that table?

A I think so, yes.

Q Did that table have four legs, or one leg?

A It was a round bottom, an iron bottom.

Q You can't remember whether it was very shaky?

MR. CONTENT: He said it was not.

A It was quite firm.

MR. CONTENT: But he said it was not fastened, however.

THE COURT: He now repeats the answer, it was quite firm.

Q It was quite firm?

A Was not fastened.

THE COURT: Not fastened down.

Q Not fastened down, but quite firm?

A Yes.

MR. CONTENT: Had a round iron stanchion or bottom?

THE WITNESS: A solid iron bottom.

MR. CONTENT: A kind of a beer garden table?

THE WITNESS: That's it.

Q That is, of course, this would not be the position you were in at the Harlem River Casino?

A Not at all.

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MR. CONTENT: Take that stand.

THE COURT: That is a very small stand.

Mr. Randolph said that was almost solid.

BY MR. CONTENT:

Q How many magazines did you have under your book at the time?

A I had a copy of The Blast and Mother Earth.

Q Didn't you say you had some other paper of Miss Goldman's, some lecture on anarchism?

A I had that in my pocket, it was a smaller book than that.

Q Is that like the one you had under your book (indicating)?

A That is right.

MR. CONTENT: Just take these two. You are taking Government's Exhibits 41 and 37.

BY MISS GOLDMAN:

Q We want to be approximately sure that you are in a similar position as you had in the Harlem River Casino?

A Yes.

Q Now, you stated before that you were now and then leaning against the wall?

A Yes.

Q While you stood on the table?

A Yes.

MISS GOLDMAN: And I understand it was a round table

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with one leg.

Q Now, when you leaned against the wall, where did you have your feet, -- were they in the center of the table, or the corner of the table?

A It would have to be the center, because if you were standing on the edge the table would move outward.

Q And you would have to be very careful during your work to keep your feet in the center of the table?

A At that time, so as to keep your feet near the center of the table.

Q And you further testified that people were coming and going all the time?

A Not all the time, some of the time.

Q Where you were standing?

A Yes.

~~Q Your position therefore would not have been very secure?~~

~~MR. CONTENT: That is argumentative again.~~

~~THE COURT: Yes.~~

Q Was your position quite secure in consideration of the fact that you were intent upon the speaker's speech?

A Yes.

Q You were quite secure?

A Yes.

Q Watching, while you were in the middle of the table, leaning against the wall, and listening to the speech?

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A Yes.

Q And having no table for your notes?

A Yes.

Q Did you say there were other men standing on the table, or were you the only man?

A On adjoining tables, tables nearby. There were several tables along the wall, several tables there.

Q You alone stood on that table?

A Yes.

~~MR. BERKMAN: May we give him that dictation now, a sample.~~

~~MR. CONTENT: I object to Mr. Berkman. I think it would be fair for Miss Goldman to do it.~~

THE COURT: I was going to say Miss Goldman could read. She can read from -- the best way would be to read from the exhibit, read from the paper that he claims he took.

MISS GOLDMAN: That is it.

THE COURT: Read from this very exhibit in evidence.

MR. CONTENT: From Exhibit No. 31.

MISS GOLDMAN: Mr. Content, Madam ~~Breshkovskaya~~ is part of the provisional government in Russia, and she is left out here (indicating transcript).

MR. CONTENT: Naturally, when her name is so difficult to be taken in shorthand.

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MISS GOLDMAN: That is too bad for you. I am going to dictate, and it must naturally be slower than speaking. (Reading) "We don't believe in conscription, this meeting tonight being a living proof. This meeting was arranged with limited means. So, friends, we who have arranged the meeting, are well satisfied if we can only urge the people of entire New York City and America, there would be no war in the United States -- there would be no conscription in the United States -- if the people are not given," --

THE WITNESS: You are not speaking at the rate of speed you spoke at the Harlem River Casino.

Q Well, I must be permitted to read it as I always do. Just a minute, please, your Honor, then we are going to prove through different testimony, additional testimony, that as a matter of fact I am unfortunately a very rapid speaker.

THE COURT: Well, his testimony is that you spoke, as I recall it, around one hundred to one hundred and twenty-five words a minute.

THE WITNESS: That is correct, your Honor. It would average one hundred, and at times went as high as about one hundred and twenty-five, according to my estimate.

MR. CONTENT: May I ask the official court stenographer whether he got all of Miss Goldman's dictation down?

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THE OFFICIAL STENOGRAPHER: No, I did not. I could not understand all the words.

THE COURT: I think she was going pretty fast.

MISS GOLDMAN: May I state here, to your Honor, that we can prove, as a matter of fact, that very few stenographers, unless they are great experts, are ever able to take me, because, as I said, I am unfortunately a very rapid speaker.

THE COURT: Well, just let me have that paper a minute.

MISS GOLDMAN: Certainly (handing same to the Court).

MR. CONTENT: Will you note an objection on my part to further dictation by Miss Goldman at that rate of speed, I mean. The witness testified that is very much faster than Miss Goldman spoke on that evening.

THE COURT: Yes.

MISS GOLDMAN: Exception taken.

THE COURT: Hand this to Miss Goldman, please (indicating Government's Exhibit 31).

Now, I just counted the words, and I know where one hundred ends, and one hundred and twenty-five words. I have not indicated to anyone where that is, where those words end. Now, read in any manner you please, Miss Goldman, and if anyone else has a watch, they may follow it, and I will follow to see how long it takes.

MISS GOLDMAN: I am to read the same --

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MR. CONTENT: Yes, the same, from the beginning.

THE COURT: Yes, the same.

MISS GOLDMAN: Objection. May we not continue to read some other place.

THE COURT: Now, I did not suppose any such suggestion would be made, and I counted from the beginning now.

MISS GOLDMAN: (reading) "We don't believe in conscription, this meeting tonight being a living proof. This meeting was arranged with limited means. So, friends, we who have arranged the meeting are well satisfied if we can only urge the people of entire New York City and America, there would be no war in the United States, there would be no conscription in the United States, if the people are not given an opportunity to have their say. Therefore we hope at least that a small portion of the population of New York City tonight is having its say. Friends, what I have to tell you tonight I want to impress upon your minds with all the intensity of my being, that we have with us people who came to break up this meeting, and therefore, friends, I ask you, friends, in the name of peace, in the name of freedom, and all that is dear to you, to be perfectly quiet and when the meeting is over" --

THE COURT: That is enough. At one hundred words, thirty-five seconds had elapsed, and at one hundred and twenty-five words, forty seconds had elapsed.

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THE WITNESS: That was very much faster than she spoke at the Harlem River Casino.

MISS GOLDMAN: I wish to offer, your Honor, that in speaking extemporaneously, it is known, I am sure to your Honor, that the speaker who speaks rapidly, naturally speaks more rapidly than reading.

THE COURT: That has all got to be a matter of evidence. I do not see that we can get anywhere with this, because you will be at liberty to produce testimony as to the manner of speaking, or as to how many words a minute the stenographers can take, and so on, and I have marked with great care where the one hundred words ended, and as I said before, it was thirty-five seconds, and one hundred and twenty-five words, forty seconds, between thirty-nine and forty seconds.

MISS GOLDMAN: Would it be in place now to ask Mr. Randolph to read what he has taken down now?

THE WITNESS: I have not gotten it all down, Miss Goldman.

THE COURT: Read what you took down first, when the interruption came.

THE WITNESS: (reading) "We don't believe in conscription. This meeting tonight being a living proof. This meeting was arranged with limited means, so friends, we can only urge the people that there will be no conscription

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in the United States" -- that is as far as I got.

~~MR. BERKMAN: May I comment?~~

~~MR. CONTENT: That is only comment. There is no objection to the admissibility of the evidence.~~

~~THE COURT: You can comment to the jury on that.~~

~~MR. CONTENT: Yes, in your summation.~~

~~MR. BERKMAN: That is all.~~

BY MR. CONTENT:

Q Miss Goldman just dictated to you. Was that much more rapid than her speech on that evening, May 18th?

A Yes.

BY JUROR NO. 4:

Q I would like to know at the time you were upon that table, in regard to this dictation, you merely placed yourself in a location where you would be at ease to take this dictation, whether it was round or smooth, or what?

A Yes, I tried to be in a position to see the speakers.

~~BY MR. BERKMAN:~~

~~Q May I ask, were you in a condition to pick your place at that crowded meeting, yes or no?~~

~~A I don't understand your question.~~

~~THE COURT: I don't either.~~

~~MR. BERKMAN: Well, the gentleman thought perhaps there was an opportunity to select a more or less better place.~~

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~~THE COURT: No, no. Mr. James (referring to Juror No. 4) simply wanted to know whether the witness adjusted himself on the table -- no matter what kind of a table it was -- whether he took the most convenient position for his purpose, and he said yes.~~

~~MR. CONTENT: He said both, from the point of view of convenience, and in order to see the speakers.~~

~~THE COURT: May I ask a single question.~~

BY THE COURT:

Q Did you have instructions that night to do anything else than take the speeches that were made, to the best of your ability?

A No, sir, that was all.

Q That was your instruction?

A Yes.

Q And when you transcribed these minutes, did you do it by yourself?

A Yes.

Q That is, it was your own work, was it?

A Yes.

Q Was that done up at your home, or at police headquarters?

A It was done at my home.

Q And when you had transcribed your minutes, did you then give the transcribed copy to some superior officer?

A I did.

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Q And is that the regular custom in regard to your work in the Police Department?

A It is. I wish to add, your Honor, that the reason I was only able to transcribe my notes on May 21st, was that I was working on some other cases in the meantime, and also had detective work, and my time was taken up on other work until I had an opportunity to transcribe the notes, and for that reason I transcribed my notes on May 21, three days later.

Q Did you receive between the night of the meeting and the day you transcribed your notes, any particular order to transcribe them, or was that contained in your original order?

A Yes, sir, that was part of the order to transcribe them, as soon as I could.

Q And you transcribed them on the 21st, without any further order?

A Yes.

Q And in accordance with your usual custom in your work in the Police Department, in that regard?

A Yes.

Q And when you have taken the minutes at some such meeting as this, then, if I understand you correctly, you transcribed them at your first available opportunity?

A Yes.

BY MR. CONTENT:

Q Between the time you took Government's Exhibit 30, your stenographic notes, for identification, and the transcript, 31,

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had you seen the District Attorney or Government's officers, or anybody else?

A No, sir.

~~THE COURT: That is all.~~

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B E N J A M I N S I L V E R M A N , a witness called on behalf of the Government, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. CONTENT:

Q You are a sergeant in the Eighth New York Coast Defense of the United States National Guard?

A I am, sir.

Q And, as a private citizen, did you attend a meeting held at the Harlem River Casino, New York City, on the evening of May 18, 1917?

A Yes, sir.

Q Did you hear the defendant Emma Goldman speak?

A I did, sir.

Q Have you heard her speak on other occasions as well?

A Yes.

Q What other occasions, for example?

A Well, at the Hunt's Point Casino.

Q On June 4th?

A On June 4th, and another occasion at Fourteenth street,

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the Star Lyceum.

Q Royal Lyceum?

A Royal Lyceum, and down at Forward Hall, East Broadway?

Q Was that June 14th?

A Yes.

Q Now, at the meeting on May 13th, how far were you, where were you standing with reference to the speakers platform, at the time Miss Goldman delivered her address?

A I was standing on her right.

Q How far from the platform?

A About twenty-five feet.

Q Could you hear her plainly?

A Yes.

Q Could she be heard in all parts of the auditorium?

A Yes.

Q How many people would you estimate to have been present on that occasion in the hall?

A Four or five thousand. That is all they could get into the place.

Q Could you hear practically everything that Miss Goldman said?

A Yes.

Q You heard Miss Goldman dictate to the last witness who was on?

A Yes.

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Q Did she speak as rapidly as she did on the evening of May 15th, as rapidly as she dictated in the court a moment ago?

A Why no --

MR. BERKMAN: I object.

THE COURT: Wait a minute.

MR. BERKMAN: On the ground that this witness has not proven himself an expert, or that he listened carefully to the dictation here a while ago.

BY THE COURT:

Q Were you in the courtroom when Miss Goldman a few minutes ago read from the article, and the stenographer, Mr. Randolph, stood here?

A Yes.

Q Did you listen to it closely?

A Yes.

Q And you were about twenty-five feet away from where Miss Goldman was talking the night of the Harlem River meeting?

A Yes.

Q And are you able to say whether or not in answer -- are you able to answer the question of the District Attorney?

MR. CONTENT: Yes or no.

A Yes.

THE COURT: Then I overrule the objection.

MR. BERKMAN: Exception.

THE WITNESS: Why, she spoke much faster in the court--

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room; she spoke about three times as fast as when she read a speech.

~~BY MR. CONTENT:~~

~~Q And would that also be true --~~

THE COURT: That is, when you say she read a speech, you are referring to the occasions when you heard her?

THE WITNESS: Yes.

THE COURT: How manytimes did you hear her?

THE WITNESS: I have heard her on a number of occasions.
~~BY MR. CONTENT:~~

Q Approximately how many?

A About four non-conscription meetings.

Q Did she, in dictating, speak more rapidly than at any of the four meetings you previously named in response to my question?

A Yes, sir.

~~MR. CONTENT: That is all.~~

CROSS EXAMINATION BY MR. BERKMAN:

Q You are also an expert in stenography?

A No, sir.

Q You don't know anything about stenography?

A No, sir.

Q And what particular way have you of judging whether Miss Goldman, when she was speaking on the platform, is different, that is, how much different from what she spoke here?

A Why, I could not quite catch her words where I was sit-

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ting then, over in that corner (indicating).

Q You could not?

A No, sir.

Q That would prove she did not speak as loud as in the other hall?

A Why, she spoke more distinctly at the hall than she did in the courtroom here.

MR. BERKMAN: Naturally, the acoustics being better, I suppose.

MR. CONTENT: That has nothing to do with it.

Q But you have no particular way of telling whether it was faster or twice as fast, or ten times as fast?

A My own idea of it.

Q Generally, a general idea of it?

A Yes, a general idea.

~~MR. BERKMAN: May I examine with regard to the meeting.~~

~~MR. CONTENT: Go ahead and ask any questions you like. I will object to them if they are improper.~~

Q You were at the Harlem River Casino meeting?

A Yes, sir.

Q You came with some other soldiers?

A No, sir.

Q You came all alone?

A I came alone, sir.

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Q Were any other men from your regiment or company there?

A There were men from all regiments.

Q There were men from all regiments?

A Yes.

Q All regiments stationed in New York?

A In and around New York; I should say.

Q You mean men from the various regiments?

A Why, there were some soldiers there, some sailors, some marines.

Q I am speaking of soldiers, of soldiers and national guard, military?

A Yes.

Q Were there members of the military there that evening at that meeting?

A Yes.

Q Did they belong to your regiment?

A Yes, some of them.

Q Did some of them belong to your company?

A No, sir.

Q You came alone without any other members from your company?

A Yes.

Q Did you know about the other members of your company, coming?

A I think I did, coming out. I was not in uniform that night.

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~~MR. CONTENT: You were not in uniform?~~

~~THE WITNESS: No, sir, I was not.~~

Q You were not in uniform?

A No, sir.

Q There were members of the military in uniform and out of uniform?

A Yes.

Q Quite a number of them?

A I think there was.

Q Do you remember any disturbance at the Harlem River Casino?

A No disturbance whatever, as I recall.

Q Do you recall anybody shouting down from the galleries, interfering with the speakers?

A I noticed a bugler approach the stage and offer to hoist a flag, and it was refused by you.

Q I beg your pardon, what is that?

A There was a bugler attached to the 14th Infantry of Brooklyn, approached the stage with a flag, and he demanded the right to hang it up, as there was none in the building, and he was refused.

Q He spoke to me?

A Yes.

Q Are you sure he spoke to me?

A I am positive.

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Q Where was I, sitting or standing on the platform?

A You were sitting on the left of Miss Goldman.

Q On the left of Miss Goldman?

A Yes.

Q Where was Miss Goldman?

A Sitting on your right.

MR. BERKMAN: Certainly, I understand that. That don't indicate the position of either.

THE COURT: He means, what part of the platform was Miss Goldman.

THE WITNESS: Why, they were sitting on the -- towards the rear, I should say, as near as I can remember, it was some time ago.

BY THE COURT:

Q What time of the evening was this?

A Why, this was about 8:45.

Q Had the speaking begun?

A Yes.

Q Speaking was going on at the time?

A Yes.

Q When the man with the bugle approached him, asking about the flag?

A Yes.

BY MR. BERKMAN:

Q How did he approach me, was the speaker in front of me, or was I in front of the speaker?

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A The speaker was in front of you.

Q The speaker was in front of me?

A He got right up on the stage, and was stopped by the speaker.

Q The speaker was in front of me?

A Yes.

Q And a man approaching me, necessarily would have to pass the speaker first?

A Why, there was some lady stopped him, sir, and he said he demanded the right to the platform, and you said you would give him the platform, and asked him not to stay, and he didn't do it.

MR. BERKMAN: That was a different man you are speaking about, the bugler.

THE COURT: You are both speaking about the bugler?

THE WITNESS: Yes.

THE COURT: And then what happened?

THE WITNESS: He was refused, so he only probably asked the chairman -- I don't know really what he asked, but there was a disturbance, and I happened to notice men in uniform, and there was no non-commissioned officer, and I approached, as a non-commissioned officer, to find out the trouble, and so I overheard the conversation between this gentleman here and the bugler from the 14th.

MR. CONTENT: Mr. Berkman, you mean?

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THE WITNESS: Yes.

THE COURT: And the bugler.

THE WITNESS: Yes.

THE COURT: And after what you saw happened, was the thing quieted down?

THE WITNESS: No, sir, Inspector ^{Myers} ~~Harris~~ came over --

MR. CONTENT: He is the police inspector?

THE WITNESS: Yes, and asked me what the trouble was, and I didn't -- I told him I didn't know, but would find out, and when I found out, the Inspector says, "Well, you know, they don't have any use for any flag, anyway", he says.

MR. BERKMAN: Now, that is all out of place.

BY MR. CONTENT:

Q Was the defendant present when Inspector ^{Myers} ~~Harris~~ said that?

A Yes, sir, he was.

THE COURT: Only state what Inspector ^{Myers} ~~Harris~~ said.

BY MR. BERKMAN:

Q Excepting there was a disturbance -- you didn't know there was any disturbance, you didn't see anything of the kind?

MR. CONTENT: I object to the form of the question, he didn't say that.

MR. BERKMAN: He did, it is on the record.

THE COURT: What he said was -- the jury, of course,

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can take their own recollection -- was that there was no disturbance, except in connection with the bugler and with the flag. Is that right?

THE WITNESS: Yes.

THE COURT: Was there a general disturbance in the hall?

THE WITNESS: No, sir.

BY THE COURT:

Q Only this bugler incident?

A Yes, this bugler incident.

Q Then did the bugler go off at that time, go off the platform?

A At my orders, sir, I told him who I was, and he immediately left the hall.

Q You told him to stop?

A Yes, sir, I did.

Q And he left the hall?

A Yes.

Q After that, did the speaking go on, without any disturbance?

A It did, sir.

Q And the meeting finished?

A Yes.

Q In due course?

A Yes.

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BY MR. BERKMAN:

Q I am not clear in my mind about where the bugler was, was he on the platform?

A Yes.

Q He was?

A Yes.

Q How did he get there?

A Well, there is a short flight of stairs runs up.

Q And anybody could come up those stairs to the platform?

A Why, they stopped him but he got up anyway.

Q He got up on the platform?

A He did.

Q Was he in uniform?

A He was.

Q And spoke to me?

A He did.

Q And the speaking was going on all this time?

A Why, I think it was stopped off.

Q Who was speaking at that time?

A I don't know.

Q You don't know who it was?

A No, sir.

Q Was I the speaker?

A No, sir, you were not the speaker.

~~Q How did he happen to come up to me, this bugler?~~

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THE COURT: We can't look into the bugler's mind.

THE WITNESS: I don't know how he got to you.

THE COURT: Mr. Berkman, you see, I have no desire to curtail the examination on this point, but the District Attorney did not ask anything about this. I do not see -- I may be in error about it -- but I do not think it has the slightest significance. Here is a public meeting, and if the witness's story is true, this bugler wanted to raise the flag. There was some disturbance about it. You, according to the witness, said in effect that he could not do it, but you are not under indictment for that reason.

MR. BERKMAN: I never saw the bugler. The whole thing is impossible.

THE COURT: Well, you cannot testify now, but all this part of it is quite immaterial to the whole thing, excepting simply as showing generally about that meeting, that is all it amounts to. The bugler is not under indictment, and you are not under indictment, even if you failed to accept the bugler's request, if his statement be true.

MR. CONTENT: Well, your Honor will understand I did not bring this out, but I have taken no objections, because the Government has nothing to hide.

MR. BERKMAN: Nor has the defense, and therefore

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~~we are bringing out the falsity of the witness, that is all.~~

~~Q I understand there was not so bad a disturbance.~~

~~MR. CONTENT: He has answered that in response to your various questions.~~

THE COURT: He has answered that. What is the use of explaining something that is very immaterial to the case. It has nothing to do with you really, nor has it anything to do with the Government, because some bugler insisted upon what he conceived to be the right thing to do, and it was not done.

MR. CONTENT: The witness was only called to testify to the rate of speed at which Miss Goldman spoke.

MISS GOLDMAN: May I say a word right here?

MR. CONTENT: I object. If you want to examine, you can.

THE COURT: You can't say anything in the way of discussion.

MISS GOLDMAN: I don't want to. I merely wish to say this, that if in his previous answers the witness said something which is utterly false, his falsity may be attacked.

MR. CONTENT: Very well, examine him. I shan't object.

THE COURT: I have to try the interests both of the defense and the Government.

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~~MISS GOLDMAN: I will not ask very many questions.~~

~~THE COURT: You are entitled to attack the credibility at any time, if that is the purpose of your question.~~

BY MISS GOLDMAN:

Q I want to ask the witness where I sat at that particular time when he stated Mr. Berkman was approached and refused, -- where was I?

A Sitting on the right.

Q On the floor of the house or on the platform?

A No, sir, on the platform of the stage.

Q Did you see me sitting on the platform?

A I did.

Q At any time?

A I did.

Q You heard me speak?

A I did.

Q And you saw me sitting on the platform at any time before I spoke?

A Yes, ma'am.

Q Were you on the platform?

A No, ma'am, I was not, I was not on the platform at the Harlem Casino, I was at some of the other meetings.

Q You saw me from the body of the house?

A I did.

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Q Sitting on the platform, before I spoke?

A Yes, ma'am.

MISS GOLDMAN: That will do.

BY MR. BERKMAN:

Q Do you know, Mr. Silverman, whether my foot was injured at the time, at that time on the platform?

A I think your foot was injured at that time.

Q It was?

A Yes.

Q Do you remember a number of people around me, to protect me because of my injury then?

A That I can't recall. There was quite a number of people on the stage.

Q There was quite a number?

A Yes.

Q They were around me, so that they could not push me?

MR. CONTENT: How does he know that?

Q Do you think it was possible for a perfect stranger to approach me, with several friends all around me?

THE COURT: Now, that is argumentative. He has told you.

Q You are sure you saw Miss Goldman sitting on the stage?

A Positively.

THE COURT: He said that three or four times.

BY MR. CONTENT:

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X Q She sat on the stage at the June 4th meeting too,
didn't she?

A Yes.

Q She sat on the stage at the Forward Hall meeting on
the 14th?

A Yes.

BY MR. BERKMAN:

Q And you swear you saw me sitting on the platform at
all those meetings?

A At one meeting on 114th street, I believe she came
right down to the hall, and immediately commenced to speak

THE COURT: When was that?

MR. CONTENT: That was the Royal Lyceum?

THE WITNESS: Royal Lyceum.

~~THE COURT: Well, is that all?~~

~~MR. CONTENT: That is all.~~ X

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EMMA JENTZER, a witness called on behalf of the Government, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. CONTENT:

Q You are a special agent of the Department of Justice?

A Yes.

Q Were you in May and June of this year?

A Yes.

Q Did you attend a meeting held at the Harlem River Park and Casino in New York City, on May 18, 1917?

A Yes.

Q Did you hear Emma Goldman speak?

A Yes.

Q Could she be plainly heard in all parts of the auditorium?

A Well, where I was, she could be plainly heard.

Q Where were you?

A On the steps, leading upstairs to the balcony.

Q How far removed was that from the speakers' platform, approximately?

A I should say about fifty feet.

Q Were you here before, while Miss Goldman was talking to the witness Randolph, who testified a few minutes ago?

A Yes.

Q Will you state in your opinion whether she spoke as rapidly at the Harlem River meeting as she did in talking to

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Mr. Randolph?

A No, sir, not quite so rapidly.

Q Did she speak loudly and clearly at the meeting?

A Very loudly and clearly and distinctly.

Q And you could hear her fifty feet from the platform?

A Oh, yes.

~~MR. CONTENT: That is all.~~

~~MR. BERKMAN: No question.~~

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J O H N C . D I L L O N , a witness called on behalf
of the Government, being first duly sworn, testified as
follows:

DIRECT EXAMINATION BY MR. CONTENT:

Q What is your occupation?

A Stenographer in the service of the New York City Police
Department.

Q You are not a police officer, however?

A No, sir.

Q A stenographer appointed to the Police Department?

A I am a stenographer in the service of the New York
Police Department.

Q Are you a civil service appointee?

A Yes.

Q How long have you been taking shorthand reports?

A Ten years, reporting meetings.

Q Have you ever taken the speeches of Emma Goldman?

A Yes, on three different occasions.

Q When?

A At a Birth Control meeting in March, 1915, at Carnegie
Hall, and at the Hunt's Point Palace Anti-Conscription Meeting.

Q On June 4, 1917?

A June 4, and at the Forward Hall Anti-Conscription
meeting.

Q June 14, 1917?

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A Yes, sir.

Q In your opinion, about how many words a minute, on an average, does Miss Goldman speak when delivering a public address, at the times when you have been present?

A I never took her where she spoke above 125 words a minute.

Q That is her average, in your opinion?

A Below that.

Q And you were present at the Hunt's Point Meeting?

A Yes.

Q At that time did she speak as rapidly as she did when she dictated to Mr. Randolph?

A She did not speak -- when she dictated to the witness Randolph, in court today, she spoke about twice as fast as she does when she makes speeches.

Q She is a loud, clear speaker?

A Very loud and clear, and very easy to take.

Q Easy to take?

A Yes.

BY THE COURT:

Q You mean by that her enunciation is distinct?

A Very clear and distinct.

Q You are not a policeman yourself?

A No, sir, I am a stenographer.

BY MR. CONTENT:

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Q And the meetings you reported because you were directed to go and report them?

A Yes.

Q You have no personal interest in the result of your dictation?

A None whatever.

~~MR. CONTENT: That is all.~~

(No cross examination).

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J E R O M E M U R P H Y , a witness called on behalf of
the Government, being first duly sworn, testified as
follows:

DIRECT EXAMINATION BY MR. CONTENT:

Q You are an acting detective sergeant of the New York
City Police Department?

A I am.

68 Q What squad?

A Bomb squad.

Q What is your shield number?

A 571.

Q On the 15th of May, did you have under observation or
surveillance the premises 20 East 125th street?

A I did.

Q At any time during that afternoon did you see the
defendants enter the premises?

A They did.

Q Which one entered first?

A Mr. Berkman.

Q About what time was that?

A About 1:45.

Q Did Miss Goldman follow him some time later?

A She did.

Q About what time did she enter?

A About 2:15.

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Q Were you present when the United States Marshal entered those premises also?

A I was.

Q When did he come, about?

A Around five o'clock, half past four.

Q Were you present when the arrest was performed?

A I was.

Q Did you stay behind later, and also see the various documents that were found in the possession of the defendants at the time of their arrest, and brought to the Marshal's office?

A I was.

Q And you have been present in court while the different exhibits that were testified to, were taken out of the boxes, and offered in evidence?

A I was.

Q And you assisted Sergeant Barnitz in arranging these different exhibits?

A Yes.

Q And does your testimony in any way differ from his?

A It does not.

~~MR. CONTENT: That is all.~~

MR. BERKMAN: No questions.

MR. CONTENT: Now, Mr. Berkman, I appreciate you are not a lawyer, but I spoke to Mr. Weinberger about this part of the case: it is part of the Government's proof that on

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the 18th of May, the President issued a proclamation fixing June 5, as registration day, and I stated to Mr. Weinberger that if the defense would not concede that, I might have to bring some ^{one from} of the State Department in Washington to testify that the President issued that proclamation.

MR. BERKMAN: We concede that.

MR. CONTENT: Let the record then read: It is conceded that on the 18th day of May, 1917, Woodrow Wilson, President of the United States, issued a proclamation, as provided by Section 5 of the Selective Draft Act of May 18, 1917, fixing June 5, 1917, as between the hours of 7 A. M. and 9 P. M., as the date upon which all persons of conscriptable age, or rather, all persons between the ages of twenty-one and thirty, both inclusive, except those exempted, should register in the precincts wherein they may have their permanent homes.

THE COURT: That is conceded?

MR. BERKMAN: Oh, that is the fact.

MR. CONTENT: And the issuance of the proclamation.

MR. BERKMAN: You mean the signing of the conscription bill?

MR. CONTENT: No, the Court will take judicial notice of that, but merely that the President, in accordance with the bill, issued a proclamation fixing June 5, as

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registration day.

MR. BERKMAN: Oh, yes.

MR. CONTENT: Between the hours of 7 A.M. and 9 P.M., calling upon all male persons, who had attained their 21st birthday, but not yet attained their 31st birthday, except members of the regular army, the navy, the marine corps, the national guard, and naval militia, officers ^{enlisted} reserve corps, and ~~national~~ reserve corps, in the active service of the United States, to register in the precincts wherein they may have their permanent homes.

MR. BERKMAN: Yes.

THE COURT: Very good.

MR. CONTENT: The Government rests.

THE COURT: Let that be what the President has lately called, the Selective Service Law.

MR. CONTENT: The Selective Service Law of May 18, 1917. The Government rests.

Do you want to move to dismiss on the ground the Government has not made a case -- I have not read a couple of exhibits to the jury, I was so anxious to get through, and with the permission of ^{The Court} ~~Mr. Goldman~~, I shall read --

THE COURT: Well, proceed then.

MR. CONTENT: Will you note that this should have been read before the Government rested?

THE COURT: Yes, the stenographer will note that.

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(At this point Mr. Content read from Government's Exhibit No. 35).

MR. CONTENT: Now, I wish to read the speech of Alexander Berkman and Emma Goldman at the meeting on June 4, 1917, which was referred to as the Hunt's Point meeting.

MR. BERKMAN: I supposed it would be the customary thing to put in the defense after the State closed its case, but the defense is perfectly willing to have --

THE COURT: No, you have a misapprehension there. Mr. Content, or you, or any of the parties to the suit, after an exhibit is in, may read the exhibit. He announced he would rest, and after he rested he stated that in the desire to put in some of these routine matters of proof, he forgot to read the exhibit, and he is simply doing what he is entitled to do.

MR. CONTENT: This also was received as Government's Exhibit No. 33.

THE COURT: Yes.

MR. CONTENT: I am reading now from that portion of Exhibit No. 33 which contains the transcript, ~~which is~~ the speech of Alexander Berkman. (Reading)

MR. CONTENT: The Government rests now.

THE COURT: Very well. The Government rests. Have you any motions, Mr. Berkman, or Miss Goldman.

(GOVERNMENT RESTS)

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MISS GOLDMAN: We move to dismiss the indictment on the ground that the Government failed to show there was a conspiracy to tell people not to register; and I further move to dismiss the indictment on the ground that the Government failed to prove or bring evidence that the defendants Emma Goldman and Alexander Berkman advised people not to register; and furthermore, move for the dismissal of the indictment on the ground that the Government failed to show in any of the speeches read or literature in evidence, that the defendants Emma Goldman and Alexander Berkman in their writings, in their communications, told the people not to register.

THE COURT: Do you make the motion on behalf of both defendants?

MISS GOLDMAN: Both defendants.

THE COURT: Motion denied, and an exception will be reserved to each defendant.

~~Now, I am going to declare a short recess, but before I do, after recess if you so desire, you may open the case, of the defendants, and let me recall to you what I said the other day. The opening of the case does not constitute a summation, but merely an outline of what you expect to prove, in the same manner as the District Attorney outlined in a general way what he expected to prove.~~

~~Now, if you will be good enough to remember that in~~

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~~X this part of the case, the summing up will come at the conclusion of the case. Now, we will have a short recess.~~

~~(Recess for five minutes) X~~

THE COURT: The defense may open.

Mr. Berkman opened the case to the jury on behalf of the defendants. THE DEFENDANTS' CASE.

~~MR. BERKMAN: Gentlemen of the jury: The facts in this case are very simple. It is not a question of printers' bills. It is not a question of rent bills or receipts delivered by or received by expressmen. The only question at issue here is, did the defendants conspire to urge and advise people not to register? That is the only question at issue. Before I briefly state what the defense will prove, may I be permitted to make a very short remark with regard to the fact that Miss Goldman and myself are defending our own case? Merely to explain the reason, since so far the reason has not been brought out, I want it stated right here that Mr. Harry Weinberger is a personal friend of ours and in justice to him I want it stated that there has been no misunderstanding between Mr. Weinberger and the defendants. We are the best of friends. Mr. Weinberger was our attorney only in the matter of bail, and when the matter of bail was settled Mr. Weinberger ceased to be our attorney in that sense. Of course, we consult Mr. Weinberger on different questions. But it is a matter of principle on the part of~~ Y

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X Miss Goldman and my own part to defend or rather to conduct our own cases. It is a matter of principle that we don't believe in being represented by legal men during our trials. We believe in explaining things to the jury ourselves. And we believe that it is just and fair to have the jury get some idea as to the defendants from their own appearance, from their own expression of opinion and conviction. And with these few remarks I am through with regard to Mr. Weinberger and the reasons why we are presenting our own case.

I said that the only question here is whether the defendants conspired to advise people not to register or to urge people not to register. I believe that the Government has absolutely, in fact ridiculously, failed to prove its case. It was brought out here during the examination of the jurymen that the Government must prove its case beyond reasonable doubt. It seems to me that the Government has not even started to prove its case that there was a conspiracy between Miss Goldman and myself to prevent or to urge people or to advise people not to register. But we, the defendants, take this opportunity to state clearly and frankly to you, gentlemen of the jury, that we are opposed to conscription; and I do that so that during the duration of this trial you will be able to judge for yourselves that the defendants

X

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are perfectly honest and frank; that they will tell you the truth as to what they do believe and as to what they don't believe. We hope to prove that the defendants all through their lives always stood up for the things they do believe in, no matter whether the majority opinion was against them. And so in this case, as all through our past lives, we mean to tell you frankly and to acknowledge frankly what we do believe, and also to be as frank in stating what we do not believe. We will be perfectly frank in stating and admitting what we did say at mass-meetings, what we did write in various magazines and we will just as frankly and honestly deny anything we did not say on the platform or in a magazine. We will deny anything put in our mouths by anybody else contrary to our wishes or opinions. In short, we will hold ourselves to the facts.

We state frankly that we are opposed to conscription now and have been opposed to conscription for twenty and more years. And even more than that: that we are and have been opposed to all militarism and war. But we deny most emphatically that either of the defendants ever told anyone not to register. And we deny that we were in any conspiracy to advise or to urge people not to register. We will prove to you, gentlemen of the jury, beyond any reasonable doubt that the Anti Conscription League of which these defendants

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were members, distinctly refused to advise people to register or not to register; distinctly refused to advise them. We will prove to your complete satisfaction that the Anti Conscription League took a positive decision at one of its meetings, a positive decision not to advise people not to register. These are proofs that we will submit.

We will also prove that the No Conscription League decided at the same time to leave it entirely and absolutely to everyone to act according to his own best understanding, judgment and his conscience. We will prove to you beyond the shadow of a doubt that the alleged overt acts charged against us in this indictment were the normal continuation of the opinions and activities which the defendants have been expressing for the last twenty-five or thirty years. We will prove to you that they were the continuation of an agitation carried on by these defendants against conscription, against militarism, against war during twenty years, and not a matter of any recent happening. We will prove to you that for many years the same views have been expressed against war and in favor of universal peace, against conscription, against forcing human beings to do anything against their will -- the views expressed for many years in our various magazines, publications and pamphlets. We will prove further that the overt acts charged against us were not overt

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acts at all, but that they were legitimate expressions of independent and fearless opinion.

We will further prove to you that the defendants Emma Goldman and Alexander Berkman have been friends and comrades for many years; that they worked along similar lines of public activity, but that they were independent thinkers and that their activity was always independent; that they used independent methods, used independent platforms -- though it often happened that we spoke on the same platform, often happened that we had articles in the same kind of magazine -- and that they were always independent thinkers and that their methods were independent. We will further prove to you that the monthly publication Mother Earth published and edited by Emma Goldman has always been and is now an entirely separate and independent publication from the labor paper published in San Francisco by Alexander Berkman and known as The Blast, originally published in San Francisco, and the last two issues published in New York City.

We will prove that Mother Earth and The Blast are absolutely independent publications; that Mother Earth has existed for twelve years and has followed all those years the policy with which it started against war, in favor of universal peace and similar subjects and that The Blast was

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started only about a year and a half ago, started five thousand miles from Mother Earth, started in San Francisco, as a result of special labor conditions on the coast; and that it had absolutely no connection with Mother Earth, and that the fact that The Blast in its last two issues was published in New York also has absolutely no connection with Mother Earth but is due to the fact that I had special business in New York in behalf of certain labor unions and that my stay in New York was delayed and protracted against my expectation and that I decided to publish a few issues of the paper here in this City.

We will therefore prove that the mere fact that Mother Earth and The Blast, and perhaps, so far as we know, a number of other magazines happened to hold similar ideas on some subjects, happened to publish articles of similar tenor on some subjects, does not in any way constitute either an overt act or a conspiracy, but as a matter of fact it has nothing to do with any conspiracy that two persons may propagate the same idea, may express it in magazines published at the same time, even in the same place; and that there is absolutely no idea and no ground to assume that there is any conspiracy about that matter.

We will also prove to you, gentlemen of the jury,

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and to your entire satisfaction, that the consensus of intelligent opinion in this country, the opinion of leading writers, the opinion of public speakers and statesmen, is that registration and conscription are two entirely distinct things, two entirely distinct conceptions of matter -- yes, two different issues. In fact, we will prove by reliable editors that many people believe in registration and are opposed to conscription -- which will show that registration is one issue, conscription an entirely different issue.

And finally, we will prove beyond any doubt that at no time and no place did these defendants or either of them tell people not to register. In fact we will submit documents to prove that one of these defendants wrote a special letter to tell the members of the No Conscription League that she is entirely opposed to telling anybody not to register. We will submit documents to prove that at no time, at no place, neither in our publications nor on any public platform, nor anywhere else, did these defendants or either of them advise or urge people not to register.

MR. CONTENT: I understand the opening was on behalf of both defendants?

MISS GOLDMAN: Both defendants.

MR. CONTENT: Just for the purposes of the record,

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in order to protect myself on my direct case, I ask the Court to note that Mr. Pickler, the gentleman who was so busy that he requested the Court to let him answer a question when it was out of order, is in court at the present time.

MISS GOLDMAN: We asked him to come.

~~THE COURT: I was interrupted a moment. Is this opening on behalf of both defendants?~~

~~MISS GOLDMAN: For both.~~

~~THE COURT: very well. Now you may call your witnesses.~~

J O H N R E E D , a witness called on behalf of the defendants, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BERKMAN:

Q Mr. Reed, what is your business?

A I am a newspaper reporter.

Q A newspaper reporter?

A Yes.

Q Is that the only work you do now, or did in the past?

A I have been a war correspondent, if you want to differentiate at all. I have also written books.

Q Did you write a book on the war?

A I have written two books on the war, yes.

Q You were also a war correspondent for a time?

A I was.

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MR. CONTENT: I ask Mr. Pickler to withdraw from the room. He is making remarks about me at the reporters' table. I do not think it is fair. I ask him to withdraw until he is called as a witness.

THE COURT: There must be no remarks by any of the witnesses to any persons excepting the persons concerned with the case.

Q Mr. Reed, you were a war correspondent for what magazine?

A I was war correspondent in Europe, representing the Metropolitan Magazine, and the New York World.

Q Representing the Metropolitan Magazine and the New York World?

A Yes.

Q Were you war correspondent on various occasions in different countries?

A I was war correspondent for all the different European countries, all the belligerent European countries, and also in Mexico, before that.

Q Were you in Mexico on behalf of the Metropolitan Magazine?

A And the New York World, -- the Metropolitan Magazine and the New York World.

Q You wrote books on the war?

A Yes.

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Q How many years have you been a war correspondent?

A I was a war correspondent three years in succession.

Q Mr. Reed, will you please tell us what is your impression, or the impression of people you associate with in the newspaper world and the magazine world, with regard to conscription and registration -- are they different matters, or the same thing?

MR. CONTENT: I object.

THE COURT: Now, I will sustain the objection, and explain the reason why, so that it is perfectly clear to you. The opinion of any layman as to whether conscription and registration are different matters, is utterly immaterial. The jury will be instructed as to what the law provides in regard to registration, and be instructed, so far as may be necessary, as to what is meant by what has been called conscription, or what was recently called in the President's latest proclamation, the Selective Service Law, and in regard to the various documents and spoken words of the defendants which are in evidence. In so far as the Court may or may not construe those words, it is for the jury to determine the meaning of those words; and the opinions by witnesses, as to whether or not there is a difference between conscription and registration, and for them to say what the difference is, are utterly immaterial and quite irrelevant. The subject

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is not irrelevant, but the opinion of a witness is irrelevant and immaterial, and for that reason I sustain the objection, and the defendants may each reserve an exception.

MR. BERKMAN: Exception taken.

But I am not quite clear about the ruling. May I ask the witness whether if he should read an article where conscription is repeated two or three times, would it lead him to believe that the same thing is meant by registration.

THE COURT: No, that is for the jury to say from all the facts and circumstances of the particular case in mind. In other words, no outside layman can construe the writings in the case. That is solely for the Court or jury, as the case may be, or for both.

Q You have talked with members of the House of Representatives, and Senators, and Cabinet Members, about the Selective Draft Law?

A Yes.

~~MR. BERKMAN: Now, may I now --~~

~~MR. CONTENT: Ask the question, and I will take my objection.~~

Q Did they speak about conscription, as if it was the same as registration?

MR. CONTENT: Finish your question.

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MR. BERKMAN: That is the question.

Q Did they speak to you about conscription as if it was the same as registration?

THE COURT: That is excluded on the same grounds.

MR. BERKMAN: Yes.

Q Do you know whether there are not people who believe in registration, and who registered, and who yet opposed conscription?

A Yes.

THE COURT: That is also excluded. Strikeout the answer as immaterial and irrelevant.

Q Were you at the Harlem River Casino?

A No, I was not.

Q You were not at that meeting?

A No.

Q Do you remember the mass meeting in Hunt's Point palace, June 4th?

A Yes.

Q Were you there?

A Yes.

Q Did you notice any disturbance at that meeting?

A Yes, I did.

~~MR. CONTENT: I object~~

~~THE COURT: Allowed.~~

~~MR. CONTENT: I withdraw it.~~

~~I think the stenographic minutes show some disturbance,~~

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~~X so I won't object.~~

~~THE COURT: Yes, I have allowed it.~~

Q Do you know there was some disturbance -- was the disturbance created by anyone in the audience?

A Yes, it was created, the two times I saw the source of the disturbance. It was created by soldiers.

Q It was read here from the stenographic minutes of the meeting at the Hunt's Point Palace, that during my address -- were you present in Hunt's Point Palace when I was on the platform?

A Yes.

Q It was stated that during my address an electric bulb, and other things, were thrown on the platform from the gallery -- did you see them thrown?

A Yes, I saw both electric globes that were thrown at that time during your address.

Q Who threw them?

A A soldier.

Q You did not see any one of our own people throwing anything at the speakers?

A No, I didn't see anything of that.

Q I mean the audience was peaceful and well behaved, with the exception --

A Well, the audience began to get mad, as the second globe was thrown.

Q Naturally.

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A But nothing was done.

Q Did the police try to prevent the soldiers from throwing things?

A After I saw the second globe thrown, I went down to the Captain of Police, and I asked the captain -- told the captain, at least, that globes, light globes, had been thrown by soldiers from the gallery, and asked him if he would go and stop it, and he looked at me, and after a while he turned his back and said, "I will see about it".

Q Did he see about it?

A I don't know whether he saw about it or not, but as I was coming out of the hall afterwards, the Captain of Police was standing at the door, and he fixed me with his eye and said very clearly, "So you are the young man that said you saw two light globes thrown on the stage", and I said, "Yes", and he said, "I have been up there looking about it, and all I can find out was that one had been thrown", and I said, "I beg your pardon, I am sorry to have made a mistake", and went away.

Q You heard my speech at the Hunt's Point Palace?

A Yes.

Q Did you hear me speak about registration, or about conscription?

A I heard you speak about -- I heard you advise people to resist conscription, as I understand it, and heard you refer to registration as the undertaker.

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Q I said that registration was the undertaker?

A Yes.

Q Did I say they should resist registration?

A No.

~~MR. CONTENT: May I ask a question? Is it the intention of the defendants to attempt to make an objection that the last transcript, Mr. Pickler's own transcript, is incorrect?~~

~~MR. BERKMAN: No, we have not looked at it very carefully, but I do not think so.~~

~~MR. CONTENT: You heard me read it the last thing.~~

~~MR. BERKMAN: Yes.~~

~~MR. CONTENT: You are not going to claim it is incorrect, in itself?~~

~~MR. BERKMAN: No, I don't think so.~~

~~MR. CONTENT: With the exception of one word I called your attention to.~~

~~MR. BERKMAN: Yes.~~

~~MR. CONTENT: Now, I understand you are asking these witnesses for their recollection, independent of what they heard in court,~~

~~MR. BERKMAN: Yes.~~

~~MR. CONTENT: I will not object if you will just ask for their recollection of what was said.~~

~~MR. BERKMAN: Yes, that is the question.~~

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Q You did not hear me advise them not to register?

A No.

Q Did you hear me advise them not to register on any other occasion?

A No. Two days before your meeting, I came up, it was in my capacity as a newspaper reporter, and I asked you privately, not for publication, whether you were going to advise your people against registration or not. You have known me a long time, and you can trust me, and you told me at that time you were not going to advise your people not to register.

Q Do you remember an occasion upon which President Wilson sent for you to come to Washington?

A Yes, sir. Do you want me to --

MR. CONTENT: No, wait until the next question.

Q Was that to consult you upon some political or social matters?

MR. CONTENT: If he answers yes or no, I don't object.

THE COURT: I don't see why it has any bearing, but --

A I would rather explain it.

MR. CONTENT: No, I won't object if you answer yes or no.

THE WITNESS: Well, yes, then.

Q To secure your opinion on certain matters?

A Yes.

Q Was it with regard to the Mexican situation?

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MR. CONTENT: Objected to as having nothing to do with this case.

THE COURT: Not the slightest. Sustained.

BY MISS GOLDMAN:

Q As a newspaper man, have you been reading the magazine Mother Earth?

A I have been reading it as a private citizen.

Q How long have you been reading Mother Earth?

A About five years.

Q May I ask you, whether in reading Mother Earth you can tell the Court and jury as regarding the attitude towards war and militarism?

MR. CONTENT: I can't see that his opinion of what he read in Mother Earth has anything to do with this case.

MISS GOLDMAN: He can explain things.

THE COURT: The best evidence is the article, if you want to prove the point that you indicate, by merely putting in any selection of representative articles, but his conception of them is immaterial. You can put in as far back as you want to, as many or as few as you deem advisable, and that series of articles, if so put in, will thus disclose to the jury whatever their contents are.

MISS GOLDMAN: Very well. Exception taken.

Q You say you were at the meeting at the Hunt's Point

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Palace?

A Yes.

Q Were you close enough to see what was going on on the platform?

A Yes.

Q Did you see me sitting down on the platform until I began to speak?

A My recollection is that I did not see you sitting on the platform at all until after then.

Q Until I came to the platform to speak?

A Until you came to the platform to speak.

Q Could you refresh your memory, and tell the Court at what particular moment I got to the platform to speak, approximately?

THE COURT: You mean in time, or with reference to some fact.

MISS GOLDMAN: No, not the time, in reference to the disturbance at the meeting.

A I was just going to say, it seems to me you came to the platform to raise your hand and ask the audience to be quiet. I am not sure about that, but I think that was when it was. I know you did, but I don't know whether that was upon the occasion of your coming to the platform or not.

Q Up until that time you would have been able to see me if I had been sitting on the platform?

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A Yes.

Q So that I was not sitting on the platform?

A To the best of my recollection you were not.

Q You stayed in the meeting until the end?

A I stayed in the meeting until the end.

Q Then was it your impression that when I began to speak, this disturbance was serious, or at its height?

A About then, I should say.

Q And during and after the speech, was the audience disturbing, or what happened?

A Well, during the speech there was no disturbance at all from the audience, except the soldiers who shouted, one from the back of the gallery, and one from the left hand gallery, looking toward the stage, or near the stage, who shouted things, and something was thrown; but I did not -- I was at that time not in the same position I had been when Berkman was speaking, or began speaking, and I did not see what was thrown and could only hear the shouts from the gallery, meaningless shouts from the gallery, and saw one of the shouters, the soldier in the back of the gallery. The other shouter I did not see.

Q Then, during my address, and after, the meeting adjourned quietly and peaceably?

A The meeting adjourned quietly, all except the plain clothes men and soldiers, who remained, on the stage, the soldiers

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shouting, and Sergeant Silverman and the plainclothes men grabbing and hustling an old lady who was handing out a leaflet, and calling her names, and hustling her away, these detectives.

Q May I ask if Sergeant Silverman was in plain clothes?

A I did not see Sergeant Silverman that night.

MR. CONTENT: He was in uniform that night. The Government will concede on that night Sergeant Silverman was in uniform.

92 [CROSS EXAMINATION BY MR. CONTENT:

Q Did you see me downstairs when you came down to complain to the police captain?

A No, I don't remember seeing you.

Q I had crutches that evening?

A I don't remember seeing any.

Q Isn't it a fact that the police captain went right over to the ^{2nd Deputy Commissioner} Police ~~Captain~~ Lord, and reported what you told him?

A No, it was not a fact. He gave me a look, and went away and left me.

Q Wasn't I right there when you were talking to Mr. Lord?

A I don't remember seeing you.

Q Don't you remember Commissioner Lord and myself making an effort in some way to stop the disorder?

A I don't know, maybe it was so, but I did not follow it.

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Q Have you ever been convicted of a crime?

A No, sir.

MR. BERKMAN: Objection.

Q Were you convicted of an offense in Paterson, New Jersey?

MR. BERKMAN: I object.

THE COURT: Overruled.

MR. BERKMAN: Exception.

A I was working on the picket line, and arrested, there was no charge given, and I was given thirty days, and upon the appeal I was let out. There was no prosecution for the appeal-- in other words, it was dismissed immediately.

Q You say on the appeal you were let out?

A Yes, on the ground there being no charge.

BY MR. BERKMAN:

Q You were arrested in Paterson?

A Yes.

Q By whom?

A By the police.

Q On what occasion?

A On the occasion of the silk workers strike in Paterson.

Q How long ago?

A I think it was 1913 or 1911, I don't remember the exact year.

Q On the occasion of the silk workers strike?

A Yes -- 1913.

The Emma Goldman Papers

850812038

United States v. Goldman & Berkman: Stenographer's Minutes [1917 June 27 to July 9] / William J. Finerty, Stenographer, United States District Court, Southern District of New York. — 824 p. ; 28 x 22 cm.

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Q Were you there in connection with some newspaper or magazine work?

A I was there as a reporter.

Q How did you happen to get arrested?

A I was walking down the street in front of the mills, and I had on my old clothes, and the police came along and told everyone to get off the street, -- no martial law had been declared and there was no rioting -- across the street; and I walked down the street, talking and looking around, and the police came and told me to go back, to get off, and I was arrested.

Q That was your crime in Paterson?

A I asked what the charge was in court, and I was told, "Thirty days".

~~MR. BERKMAN: That is all.~~

~~MR. CONTENT: That is all.~~

BY THE COURT:

Q What paper were you working for at the time?

A I was a reporter for The Masses Magazine, New York, and the Evening Globe.

THE COURT: What is The Masses magazine?

MR. BERKMAN: That was a socialist magazine.

BY MR. CONTENT:

Q That was a socialist magazine?

A Yes.

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BY THE COURT:

Q You were not then reporting for the New York World?

A No, sir.

Q Nor for the Metropolitan Magazine?

A No, although I did write a story of what happened to me in Paterson for the Metropolitan Magazine, and they printed it.

Q Did you go thereon any other business?

A No, sir.

BY MR. BERKMAN:

Q Were you at that time in the employ of the Evening Globe?

A Yes.

Q A reporter on the Globe?

A Yes.

Q And the article that you wrote was also published in the Metropolitan Magazine, on the silk workers strike?

A Yes, sir, "The Silk Workers in Prison" was the title of it, I believe.

~~MR. BERKMAN: That is all.~~

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L I N C O L N S T E F F E N S , a witness called on behalf
of the defendants, being first duly sworn, testified as
follows:

DIRECT EXAMINATION BY MR. BERKMAN:

Q Mr. Steffens, where do you reside?

A New York.

Q Are you always in New York?

A Not always, no.

Q What is your business?

A Reporter and correspondent, magazine writer.

Q War correspondent and magazine writer?

THE COURT: He said reporter, correspondent, and
magazine writer.

Q For what magazines do you write?

A Well, Everybody's, McClure's, the American, --

Q You write on Social questions, and war?

A Social questions, war, politics, business.

Q When you speak about conscription do you mean registra-
tion?

MR. CONTENT: Objected to as immaterial and irrelevant.

13 [THE COURT: Objection sustained on the same grounds
heretofore stated.

MR. BERKMAN: Exception.

THE COURT: That will be an exception to both defend-
ants.

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Q ~~Mr. Steffens, were you in Washington recently?~~

A ~~Yes.~~

Q ~~Did you interview Congressmen?~~

A ~~No.~~

Q ~~Members of the Cabinet?~~

A ~~No.~~

Q ~~Have you spoken to anybody there about the conscription law?~~

A ~~No.~~

Q Do you know about a paper called The Blast?

A Yes.

Q Do you know whether that paper was first published in San Francisco?

A So far as I know, it was, yes.

Q In connection with some labor matters?

A Yes.

Q Well, I suppose, probably being out of the country, perhaps you have not heard about the two numbers of The Blast being published in New York, have you heard about that?

A No, sir.

Q You have been out of the country, recently?

A Yes.

Q May I ask where you were?

A Russia.

Q Do you think such a trial would be possible in Russia?

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MR. CONTENT: Objected to as incompetent, irrelevant and immaterial, and improper.

MR. BERKMAN: Not at all.

THE COURT: Sustained.

MR. BERKMAN: Exception.

BY MISS GOLDMAN:

Q Mr. Steffens, would you be good enough to tell the Court how long you have known me?

A Well, I reported the first speech you made, I think, in public, in Union Square. I don't like to tell you how long ago.

Q May I tell you then?

A Yes.

Q That was in 1893. You have met me, and heard me speak on a number of occasions since?

A Yes.

Q Have you at any time, in public, heard me say that I would use violence?

A That you would use violence? No.

Q You have always known me privately, have you not?

A Yes.

Q In our private discussions about different social matters, and matters of importance, can you recall hearing me say that I would use violence?

A No, always to the contrary.

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Q Have you ever heard me say I would tell others to use violence?

A As to violence, well, I have heard you say that you were opposed to violence and force.

Q You have heard me speak on the question of war and militarism?

A Oh, yes.

Q Will you be good enough to tell the Court my position towards war and militarism?

A You have always been opposed to it.

Q Do you know the magazine Mother Earth?

A Yes.

Q May I know how many years you have been reading it?

A Well, I think I have read it ever since the first number.

Q Have you at any time in the magazine read my urging people to commit violence?

MR. CONTENT: Objected to, as the magazine would be the best evidence.

THE COURT: That comes under my previous suggestion. Objection sustained. Articles may be introduced, and will speak for themselves.

Q Then, in your conversations with me, your definite impression was that I neither believed in violence or urged others to commit violence?

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A I have always been very clear on that.

~~MISS GOLDMAN: I think that is all.~~

MR. CONTENT: No questions.

~~MR. BERKMAN: Just one question.~~

BY MR. BERKMAN:

Q You have known me for some years?

A Yes.

Q You met me in California and other places?

A Yes.

Q It has been mentioned that there is a conspiracy between Mother Earth and The Blast. From your knowledge of me, and from your knowledge of Miss Goldman, would you believe we would get into any kind of a conspiracy?

THE COURT: That is not a permissible question.

MR. CONTENT: That calls for a conclusion.

MR. BERKMAN: No.

Q Would you, knowing the character of both defendants, would you believe that it is possible for us to be parties to any conspiracy?

MR. CONTENT: Objected to.

THE COURT: Sustained.

MR. BERKMAN: May I ask --

THE COURT: You may ask him if he knows your reputation for ^{truth} ~~peace~~ and ~~quiet~~ ^{veracity}.

Q Do you know my reputation for honesty and frankness?

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A Yes.

MR. BERKMAN: I don't want the reputation for that, *truth and veracity* ~~peace and quiet.~~

MR. CONTENT: Ask him does he know your reputation for truth and veracity?

MR. BERKMAN: It is beneath my dignity to ask such a question.

MR. CONTENT: That is the way to prove a character witness.

MR. BERKMAN: I don't need a character witness.

May I ask what his opinion is of anarchism?

71 MR. CONTENT: Objected to.

THE COURT: We will read it, certainly, if Mr. Steffens ever feels disposed to write an article on the subject, but at the present time it is excluded.

Q Two persons holding similar opinions on the same social questions, may present them -- would that constitute conspiracy against conscription?

MR. CONTENT: Objected to. Mr. Steffens is not a judge of that.

THE COURT: Sustained.

MR. BERKMAN: Exception.

That is all.

~~BY MR. CONTENT:~~

~~Q Did you give me your residence, Mr. Steffens?~~

~~A 16 Gramercy Park.~~ X

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C H A R L E S P I C K L E R, recalled by the defendants.

DIRECT EXAMINATION BY MISS EMMA GOLDMAN:

Q Mr. Pickler, have you known me ^{before} until the time when you took my first speech in Hunts Point Palace?

A I never had the pleasure of meeting you before, Miss Goldman.

Q Do you know my work?

A I did not, except by newspaper reports.

Q Are you in sympathy with the work?

A No.

Q Are you an anarchist?

A No.

~~MR. CONTENT: He thinks the audience is hard of hearing.~~

Q You are a public stenographer?

A Yes.

Q And you are connected with what company?

A None.

Q How did you happen to come to the Hunts Point Palace to take the stenographic notes?

A I was employed by the S.S. Company to go there.

THE COURT: They are a stenographic company, are they?

THE WITNESS: No, sir.

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THE COURT: What are they?

THE WITNESS: They are what you call employers of shorthand reporters.

Q Then, you came there without any knowledge of either the personnel of the speakers, Miss Goldman and Alexander Berkman -- you knew nothing about them before? A Absolutely nothing, Miss Goldman.

Q You came there in your capacity as a stenographer?

A Merely as a shorthand reporter.

Q Without any affiliations with the defendants?

A Absolutely opposed to them.

Q How many words a minute can you take, Mr. Pickler?

A Miss Goldman, that is a hard question. But, I imagine, inasmuch as I have always succeeded in making a satisfactory report, that my speed will perhaps extend up to 225 words a minute.

Q How many words a minute -- wait, I beg your pardon --

A (Continuing): That is, easy work, ordinary, colloquial language.

Q Now, you have also taken notes at another meeting of the addresses made by myself and Mr. Berkman, have you not?

A Yes, Miss Goldman.

Q Will you be good enough to tell the Court what meeting that was?

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A I reported two meetings. I had the pleasure of listening to you, Miss Goldman, once at the Hunts Point Palace, and the next one was at Forward Hall, although, as I said before, I do not care at all for your principles.

Q How many words a minute do you think I am speaking?

A When you reach the peroration, I have no doubt at all, Miss Goldman, that you speak at least 200 words a minute.

Q Do you think it would be possible for any one to take my speeches standing up on a table without any support for the book, and take it accurately?

A How fast can this person write, and what experience has this person had?

Q Well, supposing he writes from 100 to 125 words a minute?

A No, and because -- I would say, Miss Goldman, it was absurd to assume such a person could report you or any one else under such circumstances.

MISS GOLDMAN: I think that is all.

~~Q~~ EXAMINATION BY MR. BERKMANN:

Q When did you first see me?

A At the Hunts Point Palace.

Q At the Hunts Point Palace, June 4th, 1917?

A Yes.

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Q Did you ever see me in your life before?

A Never.

Q And that was the first time you saw Miss Goldman in your life?

A Yes.

Q You are opposed to our ideas?

A Oh, absolutely.

Q You have no special reason for not telling the truth?

A Oh, no, no, no, -- nothing has been paid to me.

~~MR. BERKMANN: That is all.~~

CROSS EXAMINATION BY MR. CONTENT:

Q Mr. Pickler, what is your estimate of the number of words a minute Miss Goldman spoke at the Hunts Point Palace?

A Why, varying from 125 to 200 words a minute.

Q Didn't you say this morning, in response to Miss Goldman's question, that she always spoke at 200 words a minute?

A Oh, no, Miss Goldman is a very deliberate speaker, as a rule.

Q Very deliberate?

A Very deliberate.

Q Her enunciation is distinct and good?

A Fine.

Q She has a good speaking voice?

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A Wonderful.

Q As good as any woman you ever met?

A I think she is the best speaker I ever met.

75 Q Now, if she spoke at the rate of 200 words a minute, how did you have time to observe that a lemon was thrown on the stage or any character of missile?

A I did not say she was speaking at 200 words a minute when the lemon was thrown on the stage.

Q What did you say this morning, when you were cross examined, over my objection, by Miss Goldman? Didn't you introduce some remark that Miss Goldman speaks 200 words a minute?

A I may have said this, that at times, when Miss Goldman has reached a peroration, a climax, she speaks at least 200 words a minute.

Q Do you mean to say you used the word "peroration" or "climax" in your testimony this morning?

A No, sir.

Q Didn't you say this morning, as a matter of fact, didn't you interject this, the statement that Miss Goldman speaks at the rate of 200 words a minute?

A I may have.

Q You seem to have some personal interest in this case, have you?

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A None at all.

~~MR. BERKMANN: I object.~~

~~THE WITNESS: (Continuing): Except I want to see fair-play.~~

Q You seem to have some personal animus against me.

A I beg your pardon, Mr. Content, I have the very highest respect and liking for you, you are a courteous gentleman in every way.

~~MR. CONTENT: All right, that is all.~~

BY THE COURT:

Q If I understand you correctly, by peroration or climax, do you mean the end of the whole speech or at various times during the speech, when the climax is reached?

A I mean, your Honor, this: Naturally a woman of Miss Goldman's temperament, addressing a public audience, at times reaches a stage in her mental operations, when she begins to think rapidly, and as a result she begins to speak rapidly, and that may have happened fifteen or twenty times; and it means this, that the one who is reporting her must always have the capacity to report up to the maximum of her speed.

Q And then, at other times, you think the average would be down to 125?

A Oh, your Honor, at times, I do not suppose Miss Gold-

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man's speeches would exceed 100 words a minute.

Q Then, what it all comes down to is that depending upon the speaker's personality -- in this instance Miss Goldman -- there is a peroration a number of times, before he has finished the speech?

A Oh, yes, your Honor.

Q And that is generally true of all speakers?

A Yes, your Honor.

Q And it runs in this way, if I gather your testimony correctly, from around 100 words a minute when she is deliberate, and after that reaches 125, and then reaches 200, when the climax or peroration is indulged in?

A Yes, your Honor.

~~THE WITNESS: I want to say now, Mr. Content, that I do not want to be unjust to the young man who was on the stand -- if that is permissible --~~

~~THE COURT: No, it is not.~~

~~MR. CONTENT: Yes, I have no objection to any fair statement. I had some idea you had some animus against me.~~

~~THE WITNESS: Oh, no.~~

~~MR. CONTENT: Let us forget about it then.~~

~~THE COURT: Mr. Pickler, I believe, testified --~~

~~MR. CONTENT: (Interposing): Let us forget about~~

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~~it. It has nothing to do with the case.~~

BY MR. BERKMANN:

Q Did I understand you that your entrance into this matter was in the interest only of fair play?

A Why, certainly, that is all.

~~MR. BERKMANN: That is all.~~

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P A U L M U N T E R , a witness called on behalf of the defendants, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MISS GOLDMAN:

Q Mr. Munter, you are a public stenographer?

A Public stenographer, and also official stenographer to Hon. Peter B. Olney, Referee in Bankruptcy.

Q How long have you been a stenographer?

A About twenty years.

Q How long have you known me?

A Why, I guess four or five years, Miss Goldman.

Q You say four or five years?

A Yes, about that.

Q Have you done public -- have you reported my speeches or lectures?

A The first important work that you engaged me to do was when you engaged me in the Spring of 1914 to report a series of lectures on the modern drama -- I believe about twenty in number. Since then I have had, in all, I should say, about ten of your public addresses, at meetings of a political character, so to speak.

Q I understand you are considered a champion stenographer?

A No, I consider myself a good stenographer. I have passed number one in the examination for the Supreme Court, in Westchester County, last year, with a rating of 94, so I consider myself a competent stenographer. There are better men --

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Mr. Pickler is one of them.

Q Did you find it difficult to take me in my lectures and speeches?

A Harder than most of the persons I have had to report.

Q It would therefore require an expert stenographer to accurately report my speeches?

A Well, to put it a little modestly, it would require an experienced stenographer, who had had considerable experience in doing public work.

Q You said you reported a series of lectures on the social significance of the modern drama?

A I believe that was the title.

Q They were lectures, not speeches?

A No, they were what would be termed in the vernacular, high brow stuff, a little different kind of language from what you use in political speeches.

Q Will you please tell the Court whether the lectures you found, in those lectures that it was difficult to take me?

A Yes, I can say they were about the most difficult I ever had to take, because you speak easily, you recall many things, and you seem to know all about your subject, and you delivered them at a fairly uniform rate of speed, about a hundred and eighty words a minute, which is very difficult to keep up.

Q You say you have also reported public speeches, and at meetings?

A Yes.

The Emma Goldman Papers

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Q How did you find taking the speeches then?

MR. CONTENT: You mean your speeches?

MISS GOLDMAN: My speeches.

A Well, I would say that you were a little faster than the last witness said. I do not think you ever went lower than 150 words a minute, and I agree with him that your faster moments, which are rather frequent, in them you go up well beyond two hundred words a minute.

Q Then you can say that unless one is accustomed to taking speeches, public speeches, and being at the same time one who also knows the English language well, that it would be difficult for him to take my speeches accurately?

A Yes.

Q If you found it difficult to take my speeches accurately, may I ask you if at these lectures you took your stenographic notes when you were standing up?

A No, I had a very comfortable, square table, to sit at.

Q And you found it difficult even then to take the lectures?

A Yes, it kept me busy.

Q In your estimation, would be it possible for anyone to report a speech of mine accurately, standing on a table, without any support for his book?

A Well, I daresay there are people who can -- I know I cannot.

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Q You could not as an expert stenographer?

A No, I could not guarantee I had taken three-quarters of what you said in that manner.

~~MISS GOLDMAN: That is all.~~

BY MR. BERKMAN:

Q Mr. Munter, you have taken rather hard stenography, for instance, have you ever taken stenography for patent and technical evidence? ✓

A Very many years.

Q Good speakers, and all kinds, fast and slow?

A Yes.

Q And you, as an expert, were employed to take such evidence?

A Yes.

Q You are thoroughly experienced?

A I consider myself so, yes.

Q And you have difficulty frequently in taking Miss Goldman's speeches?

A Yes, indeed.

CROSS EXAMINATION BY MR. CONTENT:

Q You are paid to take, on behalf of the defendants, to ~~take~~ stenographic notes of just what occurs at this trial?

A Yes.

Q You have seen Government's Exhibit No. 32?

A Yes.

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Q That was the paper on which his Honor asked the witness to write for him those three different words?

A Yes, I glanced through it rather hastily.

Q Take a good look at it (handing same to witness).
There is no similarity between any of those three words, in shorthand?

A Not the slightest.

Q They could not be confused by a good stenographer, I mean in transcribing his notes?

A I should say they could not be confused by an amateur.
BY THE COURT:

Q Your answer is that they could not be -- to get the counsel straight -- they could not confuse an amateur, and could not confuse you?

A Yes.

Q In transcribing the notes into typewriting?

A That is what I mean.

Q That is right?

A Yes.

Q Were those three separate symbols, if I may call them such, on Exhibit 32, correctly translated by the words, "register", "conscription", "violence"?

A Yes, your Honor.

Q Were you at any of these meetings that have been spoken of here, the Hunt's Palace, or the Harlem Casino?

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A No, but I was called on to report the one at the Hunt's Point Palace, and because of not being able to take it, I turned it over to the S. S. people, who engaged Mr. Pickler.

Q You turned it over to the S. S. people, and they hired Mr. Pickler?

A Yes.

Q But you were not there yourself?

A No, sir.

Q So it follows, obviously, that you did not hear either of those speeches?

A I did not.

~~THE COURT: Any further examination of Mr. Munter?~~

~~MR. BERKMAN: No.~~

(Whereupon the further trial was adjourned to July 5, 1917, at 10 o'clock A. M.)

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~~UNITED STATES VS. GOLDMAN AND BERKMAN.~~

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New York, July 5th, 1917, 10 A.M. 

(13 Trial resumed pursuant to adjournment.

P r e s e n t :

THE COURT, COUNSEL AND JURY, SAME AS BEFORE.

THE COURT: You may proceed, Mr. Berkman.

H E L E N B O A R D M A N , a witness called on behalf
of the defendants, being first duly sworn, testified
as follows:

DIRECT EXAMINATION BY MR. BERKMAN:

Q Miss Boardman, where do you live?

A 28 Grove street, New York City.

Q What is your occupation?

A I am a research worker, psychological research.

Q For what organization or company do you work?

A For the Bureau of Educational Experiments.

Q You are interested in educational matters?

A Yes.

Q Were you born in this country?

A Yes.

Q Were your parents born here?

A Yes.

Q When did your folks come to this country?

A About the year 1640.

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Q You are a good American?

A Yes.

Q Were you present at the Harlem Casino meeting, the Harlem River Casino Mass Meeting on May 18?

A Yes.

Q Did you hear Miss Goldman's speech?

A Yes.

Q Did you hear Miss Goldman say, "We believe in violence and we will use it?"

A I did not hear that statement.

Q Did you hear Miss Goldman make any reference to violence or the use of violence?

A None whatever.

Q Did you hear Fraina speaking there?

A No, I couldn't hear that.

Q Did you hear Miss Goldman advise or urge people not to register?

~~MR. CONTENT: That is not the testimony, in those words. Well, I don't object.~~

~~THE COURT: You may answer it. It clearly calls for a conclusion.~~

~~MR. CONTENT: I don't object.~~

~~THE COURT: You may answer. X~~

A No.

Q Did you hear Miss Goldman give a reason why she would

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not advise people not to register?

A Yes.

Q What was the reason given?

A She said that she did not believe in advising people to act -- the substance of her statement was that she believed that every person should act according to the dictates of his own conscience. As I remember it, she made the further point, that she, herself, was not subject to registration, and for that reason also she would not advise people in regard to it.

Q Did she say she would leave it to the conscience of each one?

A Yes.

Q To use his own judgment?

A Yes.

Q Did you hear ^{Mr.} ~~Miss~~ Berkman advise or urge people not to register?

A No.

~~MR. CONTENT: There is no testimony that Mr. Berkman did advise people on that evening. Mr. Berkman's speech on that evening is not in evidence, your Honor.~~

THE COURT: The District Attorney says that no evidence has been adduced as to anything Mr. Berkman said that evening.

MR. BERKMAN: Exactly, but, your Honor, it will be produced by the defense. ✓

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~~X THE COURT: Very well. That is a perfectly proper question.~~

Q And you did not hear Mr. Berkman advise or urge people not to register?

A No.

Q Did you hear any other speakers that evening advise people or urge them not to register?

A No.

Q Did any other speaker inform us that this was a matter of conscience, the people who believe in freedom of conscience?

A Well, the speakers that night, Mr. Berkman, I did not hear all the speakers at the meeting.

Q I am speaking of Miss Goldman and Mr. Berkman. You did not hear either Mr. Berkman or Miss Goldman advise or urge people in any way not to register?

A No.

Q Did you recently visit the offices of Mother Earth?

A Quite recently.

Q Can you recall the date approximately?

A About June 7 or 8, I think it was.

Q Approximately. I don't know the date myself.

A Yes.

Q Did you see anybody else present there at that time?

A Yes.

Q Did you see there the reporter who was here, interview-

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ing Miss Goldman?

A Yes.

Q Did you hear the reporter ask Miss Goldman for a copy of Mother Earth?

A I don't remember whether he asked for it, but I know I saw Miss Goldman give him a copy.

Q Well, that was the June issue?

A Yes.

~~Q Must have been the first or second of June, or so, because that was when the paper came out.~~

~~MR. BERKMAN: The date is not material anyway.~~

Q Did the reporter ask Miss Goldman whether she would advise people not to register?

A Yes.

Q You heard him ask her?

A Yes.

Q What did she say?

A She replied she did not advise people in regard to registration.

Q She replied she did not advise people in regard to registration?

A Except that she advised every person to act as he thought was right.

Q As each person thought was right?

A Yes.

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~~MR. BERKMAN: I ask your Honor whether we may recall this witness later on.~~

~~MR. CONTENT: Why can't they finish now?~~

~~MR. BERKMAN: Because there is certain evidence, which this young woman can corroborate later on, evidence we have not yet put in, only corroborative evidence.~~

~~THE COURT: Of course, it is our rule to exhaust each witness, and then if in the course of the trial something comes up, you have a right to recall any witness.~~

~~MR. BERKMAN: Several of our witnesses, whom the defendants will call, these witnesses have not arrived, and Miss Boardman will corroborate certain evidence.~~

~~MR. CONTENT: Do you know what the evidence is?~~

~~THE COURT: Ask her on that line, and let them corroborate her; and then if in the course of the examination something occurs, as I said before, that you do not think of or anticipate, I will let you recall her. X~~

~~BY MR. BERKMAN:~~

Q Were you present at the meeting of the No-Conscription League on May 23rd?

A Yes, sir.

Q Was it a mass meeting?

A No, sir.

Q It was an informal meeting?

A Yes, sir.

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Q Where was the meeting held?

A At Miss Goldman's apartment.

Q Do you know where her apartment was?

A I think it is on 139th street.

Q 139th street, near Broadway. Do you recollect the special reason for calling that meeting?

A Well, I can't just say what the chief reason was.

Q Do you remember we had a Mothers' Meeting for June 4?

A Yes, sir.

Q Do you remember that that meeting of May 23rd was called to arrange for that meeting?

A Yes, sir.

78 Q You remember originally we intended to have Madison Square Garden?

A Yes, sir.

Q And the meeting of May 23rd was to arrange the mass meeting in Madison Square Garden?

A Yes, sir.

~~Q Do you remember the discussion~~

~~MR. CONTENT: I appreciate that Mr. Berkman is not a lawyer, but I do not see why he is leading.~~

~~THE COURT: You may ask this question. X~~

Q Do you remember that we talked about the Mothers' Meeting?

A Yes, sir.

Q Do you know the reason it was changed to a general

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meeting?

A Yes, sir.

Q What was the reason?

A Because it was decided that merely a Mothers' Meeting would be to limit, ~~limit~~ the attendance.

Q And that only women would come?

A Yes, sir.

Q If we called a Mothers' Meeting; we wanted men as well as women?

A Yes, sir.

Q You remember we could not get Madison Square Garden?

A Yes, sir.

Q And the meeting was changed to Hunt's Point Casino?

A Yes, sir.

Q That is the June 4th meeting. Do you remember whether I was present at the meeting, the informal meeting of May 23rd?

A Yes, sir.

Q Was Miss Goldman there?

A No, she was not.

Q Do you know the reason she was not there?

A She was out of town, I think, in Springfield.

Q Massachusetts or Illinois?

A Springfield, Massachusetts.

Q Do you know whether any message was received from Miss Goldman at that meeting?

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A A letter from her was read.

Q It was read?

A Yes, sir.

Q What did the letter concern; what subject directly?

A The subject of conscription and registration.

Q And what did Miss Goldman say about registration?

MR. CONTENT: I object to it on the ground the letter is the best evidence.

THE COURT: The objection is sustained.

Do you recollect what the letter --

MR. BERKMAN: Well, the letter is in evidence.

BY THE COURT:

Q You heard a letter read?

A Yes, sir.

Q Who read it, do you remember?

A I am not certain, I think Mr. Sachs.

Q Well, it was read, the letter was read?

A Yes, sir.

MR. BERKMAN: I would like to know from the Court whether I can ask the witness if she heard that letter read?

MR. CONTENT: The letter is the best evidence.

THE COURT: Have you the letter?

MR. BERKMAN: We have not. You remember, you instructed Miss Fitzgerald to get the letter from the Dis-

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trict Attorney; the letter was lost, she could not find it. It seems to me that the letter disappeared, it was in the possession of the District Attorney.

MR. CONTENT: You have to prove that statement.

MR. BERKMAN: I can't prove that.

THE COURT: Well, you may recall her later, after you prove that letter. You may suspend on this particular line and call her later on that.

MR. BERKMAN: We will suspend with her just now.

THE COURT: Do you want to put Miss Fitzgerald on?

MR. BERKMAN: Yes, sir. I want to ask Miss Fitzgerald if she looked for that letter, which she did.

MR. CONTENT: And could not find it.

MR. BERKMAN: And we want to put Miss Fitzgerald on the stand.

MR. CONTENT: Did ^{she} you find the letter?

MR. BERKMAN: She could not. We asked Miss Fitzgerald later for the letter, she could not find it, it was not there.

THE COURT: Then let Miss Boardman step aside until the formal proof is put in.

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M A R Y E L E A N O R F I T Z G E R A L D , a witness
recalled on behalf of the defendants, having been previ-
ously duly sworn, testified further as follows:

DIRECT EXAMINATION CONTINUED BY MR. BERKMAN:

Q Miss Fitzgerald, do you remember the meeting of May 23?

A I do.

Q It was originally a preliminary meeting?

A It was a preliminary meeting to the mass meeting of
June 4.

Q It was a preliminary meeting to the mass meeting of
June 4?

A Yes, sir.

Q Where was the meeting held?

A It was in the apartment of Miss Goldman, 603 West
139th street.

Q Was I present at that meeting?

A You were.

Q Was Miss Goldman present at that meeting?

A She was not.

Q Do you know where Miss Goldman was?

A She was lecturing at Springfield, Massachusetts.

Q Was there any word received from Miss Goldman at that
meeting?

A Yes, sir.

Q Who received it?

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A I received a personal note from Miss Goldman, and a statement enclosed with that letter, which I copied, and I was asked to have it read at the meeting of May 23rd.

795 Q Was there a request that her statement be read at the meeting of May 23rd?

A Yes, sir.

Q Did you copy the statement, and how?

A On the typewriter; I made a typewritten copy of it.

Q You made a typewritten copy of the statement?

A Yes, sir.

Q And what did you do with that statement; did you submit it to the meeting?

A It was read at the meeting.

Q That statement was read at the meeting?

A It was.

Q What became of that statement after the meeting?

A After it was read at the meeting, and the subject discussed, I took it with other papers and put it in my desk.

Q You put it in your desk?

A Yes, sir.

Q Until when?

A Until the day of the arrest, yours and Miss Goldman's arrest on June 15th.

Q And what happened to this statement on June 15th

A Well, the officer, McGee -- I learned since I am in

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the courtroom, was the man who took it from my desk.

Q Officer McGee?

A I did not know his name at that time; but since he was on the stand I recognized him as the one who took the materials from the drawer of my desk, and that statement with a few other documents.

Q Was Officer McGee with Marshal McCarthy?

A Yes, sir.

Q He took the statements?

A He took this statement of Miss Goldman's with other papers from a drawer of my desk, a typewriter drawer.

Q You saw him take it?

A I did.

Q You were standing right nearby?

A I was standing right by him; I asked for it, to give it to me, and he would not give it to me.

Q What did he say?

A He said he would take everything they wanted.

Q Did you see the statement since?

A I have not.

Q The Court instructed you a couple of days ago to look through the packages taken from the offices by the District Attorney, by the Marshal?

A Yes, sir.

Q Did you look for that statement there?

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A I did.

Q Did you find the statement?

A I did not.

Q What has become of it so far as you know?

A It disappeared; it was not with the papers in that room.

Q You did not find it there?

A I did not find it.

MR. BERKMAN: Well, we demand that the statement be produced.

MR. CONTENT: I do not believe there is such a statement.

MR. BERKMAN: I object to the District Attorney making such a remark.

THE COURT: I did not hear you.

MR. BERKMAN: We demand that the statement be produced; that the Court directed Miss Fitzgerald to get among the papers taken by your officers, Marshal McCarthy and Officer McGee.

THE COURT: Have you the statement, Mr. District Attorney?

MR. CONTENT: All the papers are in that room; I am informed Miss Fitzgerald looked through them hurriedly.

Q Were any officers with you when you looked for the statement?

A One of the officers for the courtroom went with me, I

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suppose; there was an officer unlocked the door, the two men were in the room.

Q Did they help you look for the statement?

A They were in the room while I was looking. I spent half an hour looking through the papers; I found a basket of things that had some of the papers coming from my desk, but in that basket was not the statement. I looked through the last package in the room; I spent half an hour in the room.

Mr. Berkman: I want to see the statement, please.
Mr. Content: You may want it. I have it right here.

MR. BERKMAN: Is the District Attorney quite sure

the statement is not among the papers here?

MR. CONTENT: It is not among anything I have. I have never looked through these papers; I am perfectly willing to accord you any access you want to them.

MR. BERKMAN: I want to call the attention of the Court to the fact that this is a most vital statement.

MR. CONTENT: You may look for it if you choose; I will not; I refuse to look for it myself.

THE COURT: There is no obligation on the District Attorney to look for it; my suggestion is somebody be assigned to Miss Fitzgerald as heretofore, and she can spend the whole day looking for it.

MR. CONTENT: There is no reason for destroying any papers.

THE COURT: Let me ask you a question. Now, as I understand it, your testimony is that the letter was re-

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ceived by you from the defendant, Miss Goldman?

THE WITNESS: Yes, sir.

THE COURT: Was a letter and a statement enclosed from her, or was the letter the statement?

~~THE WITNESS: A little personal note to me~~

~~MR. BERKMAN: A little louder.~~

88 [THE WITNESS: A personal note to me; with a statement giving her position on registration that was to be read at this meeting. This meeting really was to discuss the position of the League on registration, besides arranging for the June 4th meeting.

THE COURT: Now, was this statement a physical, separate paper?

THE WITNESS: It was separate from the little note, and then I copied it.

THE COURT: That was in her handwriting?

THE WITNESS: That was in her handwriting.

THE COURT: What did you do with that personal note and the statement enclosed with that personal note?

THE WITNESS: I copied the statement; I made a typewritten copy of her statement, and then I tore up the note, her original note and statement, too.

THE COURT: Then as the matter stands, you tore up the original note, and you tore up the original statement?

THE WITNESS: yes, sir.

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THE COURT: So that they are not in existence by reason of your tearing them up?

THE WITNESS: Yes, sir.

THE COURT: Now, you made a typewritten copy of this statement?

THE WITNESS: Yes, sir.

THE COURT: Where did you make it?

THE WITNESS: You mean where I did the work?

THE COURT: Yes.

THE WITNESS: In the office of The Blast, 20 East 125th street, on the typewriter.

THE COURT: What day did you receive this note from Miss Goldman, enclosing the statement?

A THE WITNESS: I think it was on the morning of the 23rd of May.

THE COURT: What hour was the meeting?

THE WITNESS: The meeting was called for eight o'clock.

THE COURT: In the evening?

THE WITNESS: In the evening.

THE COURT: Some time during the day you made this typewritten copy?

THE WITNESS: yes, sir. It was in the afternoon -- after receiving the letter from Miss Goldman, I immediately made a copy, and I tore up her note and the original statement; I had my typewritten copy to be read at the meeting.

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THE COURT: Now after you read at that meeting that night, where did you go; I mean by that, did you go to the No-Conscription League headquarters?

THE WITNESS: I stayed at Miss Goldman's that night.

THE COURT: You stayed at that apartment that night; when did you go to the No-Conscription League headquarters?

THE WITNESS: The following morning.

THE COURT: Did you have the statement with you?

THE WITNESS: I did.

THE COURT: Where did you put it?

THE WITNESS: I put it in the drawer in the typewriter desk.

~~THE COURT: What other papers were there there?~~

~~THE WITNESS: Well, there were some receipts, there were form letters -- copies of some form letters, there was a statement to the Russian Comrades that were going to Russia, in the same drawer; that was taken; there were some Chautauqua Lyceum bookings, a record book where I had an account of my tour, different things; there was a copy of the letter given to the Russian Comrades returning to Russia; that letter was in there, too. There were some receipts, and there was also my Chautauqua Lyceum bookings, the items of my bookings.~~

~~THE COURT: Now, --~~

~~THE WITNESS: I can tell the color of the paper; X~~

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~~It was a cream tan paper, I typewrote it, it started, "Dear Friend", and then Miss Goldman gave her position on registration, what she wanted read that night.~~

MR. CONTENT: I have been called upon to produce this letter. Before the trial began, it was last Saturday morning, around ten a.m., Mr. Weinberger, I think was their attorney then, and he called me up and he said he would have to serve me with a notice to produce a letter from Miss Goldman to Miss Fitzgerald. I said, he did not need to go to the trouble to serve a notice to produce anything, that anything that I had, he was welcome to ~~it~~. He asked me if I would look specifically for a letter from Springfield, from Miss Goldman to Miss Fitzgerald. I sent Detective Sergeant Barnitz, who is more familiar with the files than I am, and he could not find that letter. I never knew about this copy of the statement. Mr. Weinberger asked me to produce a letter. Now Miss Fitzgerald says the letter is destroyed; that is what I have been looking for, and I have had Detective Sergeant Barnitz looking for, assiduously.

Now Mr. Berkman is requesting that a man in my ^{physical} condition should go to the room, go through the files when everything is at their access. We have nothing to hide. We are asked to produce a letter, and it now appears the letter was destroyed by the witness. I want you to

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understand I have made an effort to locate it in the files. I can't produce something I have not got.

MR. BERKMAN: I did not mean the District Attorney himself should now look for it. I mean it should be done.

THE COURT: There will be no difficulty about it. Now you say that the drawer containing these different papers that you have outlined, was taken by a man that you know now as Officer McGee, who was on the stand the other day for a few minutes?

THE WITNESS: Yes, sir.

THE COURT: Now you could recognize it at once, I assume?

THE WITNESS: Yes, sir, I could.

THE COURT: There will be no difficulty at all. You can just arrange, Mr. Content, to assign somebody and allow Miss Fitzgerald to go through, as she had the opportunity to do the other day, and spend sufficient time in looking for it. Let her go through everything there is in the place.

MR. CONTENT: Absolutely.

MISS GOLDMAN: If Miss Fitzgerald is taken off now to look for the letter, I would be unable to go on with her testimony, inasmuch as the most of the witnesses, at least a number of them, have been present when the letter was read, and are corroborative; it is evidence that the letter was received, giving my position on

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registration. I really can't make it possible to go on with the testimony right now.

MR. CONTENT: If your Honor wants to receive secondary evidence on that, I suppose you will; I do not care much about it.

THE COURT: I do not want to delay the trial, nor do I want to deny the fullest opportunity to have any testimony produced in regard to any matter which is material to the defense, even though such production is not strictly in accordance with the technical rules of law. Now, I will let you ask this witness here, any other questions as to the contents of that letter; then, when that shall have been done, at some convenient time before the trial is over -- if it is necessary for her to stay, or this evening, she may search for this letter; if it is there, it is there; if it is not there, it is for the jury to say whether or not on all the evidence, such a copy was taken or was not taken; existed or did not exist.

MISS GOLDMAN: ~~I think you.~~ *That is satisfactory.*

JUROR NO. 4: May I ask a question? The originals I understand from you, the statement and the letter were destroyed, the original?

THE WITNESS: The note I received from Miss Goldman I did destroy, that is true.

JUROR NO. 4: The letter also?

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MR. CONTENT: The statement was in Miss Goldman's handwriting.

THE COURT: The juror wants to know whether you destroyed both of them, the note and the statement.

THE WITNESS: I did.

JUROR NO. 4: Except that you made a typewritten copy --

THE WITNESS: When I made the typewritten copy, I simply tore up the letter and put it in the wastebasket; I did not know I was going to be a witness, because if it was necessary in this way, I would have saved everything. The only thing I needed was the statement; I had a copy of it; I tore up the letter and put it in the wastebasket, unfortunately.

JUROR NO. 4: That is your usual way with communications and letters that you receive; you tear them up --

THE WITNESS: If I have no further use for it.

JUROR NO. 4: That is the way you transact your business; you tear up the originals after making a copy of the statement?

THE WITNESS: No, it is not. I did not have any further use for it, at least I thought so at that time. When I made my copy to read to the meeting, I destroyed the other. I have that, what I thought it was necessary to keep, I kept.

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✓ MR. CONTENT: ^{Will} Your Honor ^{will} ~~knows~~ I am only asked to produce the typewritten copy.

THE COURT: Yes.
BY THE COURT: ~~Will~~ ^{Will} ~~Mr. Content~~ ^{Mr. Content}.

Q Did you have any particular reason for taking a copy and tearing up the original?

A The reason I took a copy was so that it could be easily read at the meeting; Miss Goldman's handwriting is not easy to read except for those who are used to her writing; it is not easy to read. I made a typewritten copy so as to be easy to read. She took specific instructions to have it read at the meeting, so far as I knew she was not to be present. She was at Springfield, Massachusetts, lecturing. It was a perfect, natural thing, that I made a copy of the statement which was to be read, put it in shape so that it could be read easily and rapidly. I copied it, and then I kept a typewritten copy with my other documents.

Q That is what I mean. The typewritten copy could be read easier than the original?

A Yes, sir.

JUROR NO. 10: Who read it at the meeting?

THE WITNESS: I read it.

JUROR NO. 10: Are you acquainted with Miss Goldman's handwriting?

THE WITNESS: I am, yes, sir. I did not understand

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I was to read it at the meeting. I did not know who might read it, but it was to be read there.

~~MR. BERKMAN: You clarify the point --~~

Q Now will you repeat, not your own conclusion of the letter, but repeat so far as your memory serves you, the wording of that letter?

A Well, I could not give you the wording of the letter from beginning to end, it was about a page --

Q I mean, give your best recollection.

A It ⁸²was a page and a quarter, a full typewritten page, the ordinary typewritten page, it was a full page, and about eight or nine lines on the other page; and in this way she starts "Dear Friend" and in this letter she gave emphatically and definitely -- gave her position on the conscription.

Q That is what I am asking you.

A I can give these lines of it: "That I do not advise or urge young men to refuse to register"; those two lines definitely and absolutely were written; and another statement following that "As an anarchist, I could not do that, because that would be taking the same position as the Government, by telling someone to do this or do that; I refuse to advise young men to refuse to register, it must be left to the individual".

Q Was there anything in there about conscription?

A I do not remember whether there was. I do not remember ^{think}

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that there was anything about conscription; and then something regarding the meeting we were to hold, the Mothers No-Conscription Meeting.

Q Your recollection is there was nothing about conscription?

A My recollection is there was nothing about conscription any more than about the meeting we were to hold on June 4.

Q How many people were in that meeting at Miss Goldman's apartment?

A On May 23rd? Well, there were at least twenty-five people.

Q Were they all known to you?

A No, sir.

Q Most of them?

A No, sir.

Q Do you know how they came there; what notice they got?

A I know their faces were familiar because they attended other meetings; I did not know them by name.

Q Were all the faces familiar?

A No, not all the faces were familiar, because on that evening, May 23rd, I had sent out notices to the different anti-militaristic organizations, asking them to send delegates to the meeting, with the object of discussing the subject of registration.

MR. CONTENT: On what date?

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THE WITNESS: This was May 23rd.

~~MR. CONTENT: You said something about notices. I did not hear you.~~

~~THE COURT: She said she sent out notices for the meeting at Miss Goldman's apartment on the 23rd.~~ X

THE WITNESS: I sent out notices of the meeting to the anti-militaristic organizations, asking them to send delegates to this meeting, as we wanted to get together a little closer and discuss the work they were doing and the work we were doing.

THE COURT: Who acted as chairman at that meeting?

THE WITNESS: I think Mr. Berkman was the chairman at that meeting.

THE COURT: Was there anything said as to who was there? Any question asked whether there were delegates from the blank blank association, or whatever the names of some of the organizations were?

THE WITNESS: Yes, sir.

Q Let us hear about that?

A There was a delegate from the Emergency Peace Federation.

Q Who was there?

A Rebecca Shelley; Miss Boardman came as a delegate from the Union of Democracy -- I do not know its full name -- then there was a gentleman from Brooklyn, I understood he was repre-

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sending five thousand conscientious objectors; he stated that evening his name was Pilkin, I think he gave us his name, I did not see him before.

~~MR. CONTENT: What?~~

~~THE WITNESS: I did not see him before, he spoke at that meeting, I cannot say about the name.~~

Q You knew, if I understood you correctly, that there were enough people who were strangers -- those persons who were in the No-Conscription League -- were to be present, or rather you expected a number of people?

A I asked these delegates; I never met them before.

Q Do you know whether they knew Miss Goldman or not?

A Most of them did know Miss Goldman.

Q Did you know, that is my question?

A Yes, I knew that several of them knew Miss Goldman.

You mean the ones coming from the organizations?

Q Yes.

A I knew some of them knew her.

Q When you typed this statement and tore up the original, was it your intention to read the statement that evening?

A For me to read it?

Q Yes.

A No.

Q Was it your intention it should be read?

A Certainly.

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Q Did it occur to you at all that tearing up the original, some person at that meeting might want to see the original to make sure it was Miss Goldman who said it?

A It did not occur to me, your Honor. In our organization our words are believed.

Q I understood you --

A Pardon me one minute. If Mr. Berkman or Miss Goldman or any of the others of the No-Conscription League would say they had a statement from Miss Goldman, our words would be taken, would be believed.

Q I understood so, that is the reason I asked you the question. Were the invitations sent to some persons who were connected with other organizations as well as to your crowd?

A Our own crowd -- the understanding from the meeting before was that there would be a meeting held -- in the office, someone sent notices, someone notified in the meeting previous to May 18, and then what I told you, I did write notices to the different anti-militaristic organizations, asking them to send delegates, and they did.

Q Have you got a copy of those notices, or did you keep a copy of them?

A Yes, there was a copy; I think that was also taken with the -- I think that was one of the copies in the drawer of my desk.

Q When did you write that, write the notices?

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A How many days before the meeting of May 23rd? Well, about two or three days before.

Q When was the 23rd meeting decided on?

A Well, I think from the -- when we had a previous meeting, I know that was -- when we had arranged it, we announced a date from the previous meeting of a meeting, and decided on a date.

Q What do you mean by the previous meeting?

A On the 16th of May we had a meeting; that was before the 18th of May.

Q The 16th of May; did you then arrange for the meeting on the 23rd?

A Well, I think we did, yes, sir.

Q What was the meeting to be for?

A I do not remember whether -- I know on the 23rd meeting we said we would meet on the 30th.

Q I am not asking you about that. I am trying to find out why the meeting of the 23rd was arranged, by whom, and what for?

A It was arranged by the No-Conscription League.

Q That does not mean anything at all to me. I mean the person?

A I sent out the notices.

Q But somebody must have said something, or somebody must have moved, or somebody must have said that persons should be invited to the meeting of the 23rd of May?

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A After the meeting⁵ May 18th there were a few of the League members that met after the meeting, while we were at the --

Q Where?

A In the room where we counted the collection, it was decided we would have another meeting.

Q Was it then arranged as to date?

A I do not know whether it was then arranged as to date.

Q Who arranged the date, do you know?

A I think I did. I think I just said we would have a meeting at a certain date.

Q When did you arrange that?

A I can't tell just now how I came to make the date.

Q When did Miss Goldman leave for Springfield?

A I think she was away at Springfield on May 22nd or the 23rd, as I remember it, and she left New York on the 21st. As I remember it, her dates were the 22nd and the 23rd.

Q She left New York on the 21st then?

A I think so now.

Q She left and was absent anyway on the 22nd?

A She was absent on the 23rd.

Q Was she absent on the 22nd?

A She was absent on the 22nd, the 22nd and 23rd, to give a lecture at Springfield.

Q Was she absent when the date was arranged for the 23rd meeting?

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A I think she was. I think before she went away for her lecture, -- I am not sure, we arranged that meeting, and then I understood we were to have that meeting on the 23rd, and she wrote me this letter, asking me to have it read.

Q Are you able to state definitely when the date, May 23rd, was selected?

A By that do you mean do I know the very day on which it was arranged?

Q The very day it was arranged to hold the meeting on May 23rd at Miss Goldman's apartment?

A Well, I am afraid I could not say just the day; I know it was just a few days before she left.

Q You can't give us the date. Now, can you give us the occasion when it was decided to hold the meeting; where was it? When was it decided, or where was it decided? Was it decided at the meeting of the No-Conscription League, at the end of the Harlem River meeting?

A It was decided at the office of the No-Conscription League.

Q When?

A Before she went to Springfield for her lecture.

Q Did she state whether or not she was to be absent on the 23rd day?

A She did.

Q Did she at that time write anything and give it to you?

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A Not at that time; she wrote going on the train, or wrote after she reached Springfield, so that I got it on the 23rd day of May.

~~Q May 18 is not the Harlem River meeting?~~

~~A It was not the Harlem River meeting.~~

Q May 23rd was the meeting in Miss Goldman's apartment?

A It was originally called for 125th street, but on account of Mr. Berkman's foot, the people were sent down to Miss Goldman's apartment.

Q You mean sent up?

A Sent up.

Q By that I mean sent up town?

A Yes, sir.

Q Now you stated Miss Goldman was away on the 23rd?

A On the 22nd and the 23rd, if my memory --

Q Now somewhere between the 18th and the 22nd the meeting was arranged?

A It was.

Q You say it was arranged at the No-Conscription League office?

A Yes, sir.

Q Who was present? Well, was Mr. Berkman there?

A I do not know whether he was -- he was not. No, he was not.

Q Was Miss Goldman?

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A I think Miss Goldman and myself talked the matter over, and that night, that I talked with Miss Goldman about having some of the delegates over from these other organizations, coming in and talking over things with us, so that we would know what they were doing and they would know what we were doing.

Q Was the meeting arranged by you and Miss Goldman?

A That meeting was arranged by Miss Goldman and myself, as I remember it.

Q Anybody else?

A I do not remember anybody else now.

Q How did you invite those persons who were present as delegates from these other organizations?

A By letters, by cards; some that were in the office were simply told by word of mouth there would be a meeting.

Q Now have you any recollection what these notices said?

~~A Well, I can give you -- that is, --~~

~~Q Give us your best recollection.~~

A A meeting of the No-Conscription League will be had May 23, at 8 P. M., at -- that is about all there was to it.

Q There was nothing in the notice disclosing the nature of the business that evening?

A Nothing in the notice.

Q What it all amounted to was a notice simply that the No-Conscription League would hold a meeting on May 23rd?

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A Yes, sir.

Q Now did the notice say to meet at Miss Goldman's House?

A No, sir. The notice said to meet at 20 East 125th street.

Q Did the people come there then?

A The people came up to the office at 20 East 125th street, and there was a young man left at the office to send them to 603 West 139th street.

Q What was his name?

A Carl ~~Newman~~ ^{newlander}.

Q Now going back to the statement of which you made a copy, this statement enclosed in Miss Goldman's letter to you; have you now stated in substance in response to the Court's question, all that that statement contained?

A You asked if I stated -- I have stated in substance all that notice of Miss Goldman's -- rather the statement, contained.

Q Was there any reference in the letter to the Harlem River meeting?

A No, sir.

Q Was there any reference there to the so-called Mothers' Meeting -- is that correct?

A That is correct.

Q Was there any reference in there to the meeting?

A No, sir, not that I know of. It was giving her position emphatically on registration, and it was -- and about the matters

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of the No-Conscription meeting, we had planned for Madison Square Garden, and we were unable to get the Garden after it was promised to us.

~~MISS GOLDMAN: May I ask one question.~~

~~THE COURT: Yes.~~

BY MISS GOLDMAN:

Q Miss Fitzgerald, you have known me for quite some time, have you not?

A Yes, Miss Goldman, I have known you for nine or ten years.

Q You have corresponded with me on a number of occasions, have you not?

A I have.

Q Isn't it a fact that my nearest friends even find it difficult to read my writing?

A Well, yes.

Q Isn't it a fact that we can never send original copies of what I write by hand to a printer?

A That is true, you cannot.

Q Isn't it a fact that whenever a statement is to be read it must be first typewritten?

A Absolutely.

Q Then the reason for typewriting this statement which I wrote on the train going to Springfield --

THE COURT: You may ask about the statement which she received.

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Q The statement which you received, you received on the 23rd, did you not?

A That is my best recollection, I received it the day of the meeting held in the evening.

Q Then the reason for typewriting the original was really the fact it is very difficult to read my handwriting?

A It is difficult to read your handwriting.

Q Isn't it also true, Miss Fitzgerald, that whenever my original statements or articles are typewritten, isn't it a fact that the original is always destroyed?

A Yes,

Q Isn't it a fact --

~~MR. CONTENT: Of course these questions are not leading, your Honor.~~

~~MISS GOLDMAN: I am willing to state it in any form that the Court will instruct me, absolutely; I have no desire to hide whatever. To satisfy the District Attorney I will withdraw the form of the question.~~

Q Now, Miss Fitzgerald, about my handwriting, do I write small or large?

A You write a large, strong handwriting.

Q Do I use up little paper or a great deal of paper?

A You use a great deal of paper.

Q Now, in the original statements or articles or whatever is sent to be read or to be published, you said that the main

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purpose, the main reason is my handwriting is difficult to decipher?

A Yes, sir.

Q Let me also ask you, whether it is not also because it would take quite a large building to hold all the papers?

A That is true; our office is small.

Q They really you destroyed --

A May I add something right here to the question -- why, right here where I was asked wouldn't it take a large building, I wanted for the benefit of this jury to say, when he asked if it is my custom to tear up all the things -- it would take a lot of files and fill up the place to no purpose. I said to him, unless it was necessary to keep them, it was my custom to tear up things that we have no further use for, and I did keep a typewritten copy of what I felt we had used for. I felt you doubted my statement.

THE COURT: You can ask the question direct, Mr. Juror.
BY JUROR NO. 4:

Q This was not of enough importance, to retain Miss Goldman's original, was it, the original statement or the original letter; you disregarded that and you simply made a carbon copy, you made a typewritten copy?

A I made a typewritten copy. I stated I had no thought at that time I would have to be up on the witness stand to be cross-examined regarding the statement. If I thought of all

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of this I would have the original, I would have everything.

Q May I ask you one more question. Why did you memorize so thoroughly certain lines of this letter in that regard?

A It was not memorized.

Q Nothing occurred to you to do that thing?

A The purpose of her sending that statement back was to have it read at the meeting; it was her position regarding registration; I have given our position, and if there is --

BY MISS GOLDMAN:

Q Miss Fitzgerald, have you stated here why the meeting on the 23rd was decided upon, why I suggested a meeting on the 23rd? I am not sure whether you did or not, because it is difficult to hear you back here. Have you stated it?

A I stated it was for the purpose of arranging this Mothers' Conscription meeting, and also for the League to clarify its stand or to make definite its stand on the subject of registration. I explained to the Court that previously I sent out notices to the different anti-militaristic organizations, so that their delegates would be present, and could all talk together on the subject.

Q Now between the 18th of May and the 23rd, or rather the 22nd, when I left for Springfield, did I or did I not talk to you on this issue?

A You did.

Q Of my own stand?

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Q And can you approximately give the gist of our numerous conversations, what stand I took?

A I have in my statement to the Court; that is really the gist, that you were very emphatic every time we have discussed it, and in the statement that you sent from Springfield you said that you would not take it upon yourself to advise the young men not to register or to register, that it must be left to the individual, and insofar as you would not come under the -- you would not be punished -- if you did not come under the registration law, you would not take it upon yourself to tell other people what to do, that would be taking the attitude of the Government. No, Miss Goldman, that is as briefly as I can state, that is your statement at that time.

Q Naturally, since you did not memorize everything, you can't give it verbatim. Now, this meeting took place on the 23rd and the statement was read?

A It was.

Q Just a minute. In the note I wrote you, inclosing the statement, have you any recollection of what I said should be done with the statement?

A You asked me to make a typewritten copy of it and have it read at the meeting, which I did.

BY MR. CONTENT:

Q You destroyed that note?

A I did; I explained, Mr. Content, I tore up the original note.

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~~Q You did not make a copy of the letter -- I just wanted to know if I was supposed to produce it.~~

~~MR. BERKMAN: I object, people do not make copies of letters received.~~

~~THE COURT: Mr. District Attorney, you will reserve your question until your cross examination.~~

~~MR. CONTENT: I apologize to the Court.~~ X

BY MISS GOLDMAN:

Q And then the letter was read?

A The letter was read.

THE COURT: Before you leave that letter, let me ask you a question.

THE WITNESS: The statement was read.

THE COURT: Of course, the statement.

BY THE COURT:

Q I understand -- if I am in error, I wish you would correct me -- there was something in the letter to the effect that she was an anarchist, and that as to the question of registration the writer could not do that, that is to say, could not advise persons?

A Could not say do this or do that.

Q I mean, could not do this or do that?

A Yes, sir.

Q If I understood you correctly, it referred to the general position of the Federation, not merely as to registra-

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tion, but as to any other act having to do with the conduct of other persons? You understand the question?

A I do not.

Q When you said Miss Goldman said, you recollect, as an anarchist, she could not say, or words to that effect, whatever it was, do this or do that, did that refer in the letter solely to registration, or was that a general statement?

A She was referring to registration in the sense as used, she was referring to the specific thing of registration.

Q As you recollect it, the letter was, or the expression was limited to registration; that was a pronouncement of the general principle of anarchy?

A It was both; it was the principle of anarchism and also was used in connection with her statement regarding registration, advice on registration.

Q If I understood you correctly, the principle is that there is not to be any advice or suggestion on any given subject?

A And no coercion.

Q I said advice; coercion is another matter.

A You are asking me now as an anarchist on certain things?

Q Yes, for what you have brought out before.

A As an anarchist, each individual must decide his own acts for himself. If your Honor will let me tell you this, there wasn't a day but what twenty-five or thirty young men came up to our office and asked her advice about registration --

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Q I did not ask you that.

A I want to tell you.

Q Just confine yourself now directly to the stand that the league took.

A I would say there were some young men from the District Attorney's office came there, and they can tell you, that somebody had been advising young men to register or not to register, and it was a matter that must be left to their own individual consciences. That was definitely decided at the May 23rd meeting, it was said in our previous meeting of May 18.

Q Was that merely said in regard to the draft?

A The subject of the draft was not up.

Q I mean, was that merely said in regard to the draft?

A The subject of the draft was not discussed at any of our preliminary meetings; it had not come up, we had not reached that stage at that time.

86 Q Are you quite sure about that?

A The general stand of conscription -- personally, I am against it.

Q Wasn't there a good deal of discussion on the night of the 16th of May?

MR. CONTENT: The 18th.

Q No, the 16th.

A You mean the 16th, the little preliminary meeting we had?

Q Yes.

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A The 16th/ that was before the 13th meeting.

Q Before the bill passed?

A Certainly there was discussion about it; there was no advice given to anybody.

Q You were present on the 13th?

A I was present on the 13th.

Q Did you hear the speeches?

A Not all of them, as I told you I was --

Q Was there any advice given by either of the defendants on that occasion on any subject?

A At all our meetings --

Q Please answer that single question; it is about as simple a question as I can frame. You heard the speeches.

A I did not hear the speeches.

Q Did you hear Mr. Berkman speak?

A I did not. I heard Miss Goldman.

Q Did you hear Miss Goldman?

A I was standing on the stage.

Q Were you in Hunt's Point Palace?

A Yes, sir.

Q Was advice given there, do you know?

A There was a statement giving their position on conscription and different things; there was no advice telling people to do this or not to do this.

Q You are quite sure of that?

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A I am, I feel I am, sure.

Q Did you hear the speeches at the Hunt's Point Palace?

I mean of the two defendants?

A Yes, I was in position.

Q Did you hear everything?

A I heard their speeches.

Q Is it your recollection then, that nothing on that occasion was said in the way of advice or counsel to other persons in regard to their registration, or what you call conscription?

A No, what I call registration or conscription.

Q I say in regard to either registration or what you call conscription?

A. As I remember, at this meeting they were definite -- they took a definite stand, they stated emphatically their position on this whole thing:-- "I am not in a position to say on any of those subjects, do this or do that".

BY MISS GOLDMAN:

Q Miss Fitzgerald, you said you have known me for a number of years?

A I have, Miss Goldman.

Q You have heard me speak a great many times?

A I have.

Q Have you at any time heard me say to people, this or this or that must be their stand?

A I never have, Miss Goldman, entirely to the contrary.

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~~Q Can you from the number of speeches you have heard, pertaining to any subject, let us say, can you recollect what my stand was or is my stand on those subjects --~~

~~MR. CONTENT: How anyone can answer that question I do not know.~~

~~THE COURT: Finish the question.~~

~~Q (continuing) In a lecture or in a speech?~~

~~THE COURT: That is too broad a question.~~

~~Q Well, let us say, taking conscription?~~

~~THE COURT: That is correct.~~

~~Q Approximately, can you give the Court the outline in a few words, what my emphatic position is?~~

~~MR. CONTENT: On conscription.~~

~~A Your position on conscription, that as an American citizen we think it violates the rights and liberty of the individual.~~

~~Q In other words, it always gives my position?~~

~~A Your position.~~

~~Q Not to tell others what to do?~~

~~A What to do.~~

~~MISS GOLDMAN: May I ask the Court, please, whether he has finished the question of the letter, and then recall Miss Fitzgerald; we have other persons, witnesses, who I understand were present at the 23rd of May meeting.~~

~~THE COURT: You may recall Miss Fitzgerald at any time.~~

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~~as long as she will be here. She was called solely in regard to the letter incident. Now you took Miss Boardman off the stand for the purpose of letting Miss Fitzgerald testify on this subject; and then you may call her again upon any other subject.~~

~~MISS GOLDMAN: Only to satisfy my own mind, it seems to me -- we are not practised lawyers.~~

~~THE COURT: You are learning very fast.~~

~~MISS GOLDMAN: I hope so.~~

BY MR. BERKMAN:

Q There were other people present at the meeting of May 23rd?

A Yes, sir.

Q Who spoke, too, at the time?

A Yes, sir.

Q And those people heard the letter read, if it was read?

A Yes, they all heard it.

Q Was a representative of the Union Against Militarism?

MR. CONTENT: She already answered this; no reason for his leading any further.

THE COURT: That is the Emergency Peace League, the Union for Democracy, one representative represented five thousand conscientious objectors from Brooklyn?

THE WITNESS: Yes, sir.

Q At this meeting, the preliminary meeting called to ar-

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range for the Mothers' Meeting --

THE COURT: She has been all over that Do not ask that question.

Q I wanted to know whether it was formal or informal?

A Informal.

Q Could I, for instance, call a meeting if I felt like it?

A Yes, sir.

Q I could. Did I have to consult anyone?

A No, sir.

Q Any of the active members of the organization are authorized to call meetings?

A Yes, they would have to notify me, and I would go about it. I can, perhaps it would be better to make that clear; any member of the League could call for a meeting, they simply let me know about it.

Q Informal affairs?

A Informal affairs.

Q Were there any minutes taken in the meeting?

A None, except the things that we wanted, like getting out bulletins, or getting up a manifesto, or getting up lectures; those things were jotted down.

87 Q They would be instructions to the secretary?

A Yes, sir.

Q Minutes of the meeting?

A No, sir.

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Q Because they were only informal affairs?

A Because they were only informal affairs.

Q Was the meeting of May 23rd called for two special purposes?

A It was.

Q State the purposes?

A To discuss the subject of registration, and the plans for the other meeting, the Mothers' No-Conscription Meeting on June 4.

Q Did we take any definite stand on registration at that meeting?

A We did.

Q That was the first meeting at which the League took a definite stand?

A Yes, sir.

Q What is the stand taken by the League finally?

A The stand taken by the League was not to advise or urge young men not to register; would not tell them to register or not to register, it was left to the individual, and at that meeting there were various opinions expressed, some for registration and some against registration; but the stand of the League, and they decided at that meeting, after the letter of Miss Goldman's was read, was that the league as a league would not advise people to register or not to register.

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Q That is the position taken after the reading of Miss Goldman's letter, and after discussion?

A After reading Miss Goldman's letter and the discussion; there was quite a lengthy discussion; different delegates were there, expressed themselves, and our own people expressed themselves, and the stand of the league after all this was they would not advise people to register or not to register; it was an individual matter.

Q The papers you kept in your office; did you keep all the papers received or letters received for the last year?

A I did not; no; sir.

Q You only kept what you considered papers to be of use in the future?

A Yes, sir. Just let me explain that. I have just moved the last files, etc. from San Francisco to New York; there were a great many destroyed, no use for them, just filled up the space; and I decided not to keep everything, to keep in the office, unless I considered it of importance.

Q Your custom was not to keep these letters if they were useless, so far as you know?

A If I considered it of no importance after the business was attended to, I simply destroyed the letter so as not to fill up the files of the office. I know business houses keep whole rooms full of letters. If we would have something new in the office, simply put it away.

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Q The No-Conscription business is constructed not as one big corporation?

A No, sir.

Q The space is rather limited in our office?

~~THE COURT: She has been all over that.~~

~~MR. BERKMAN: All right.~~

Q Did you hear me while I was in the office of The Blast call up various people, informing them about the meeting of May 23rd?

A You did.

Q And those people you did not consider it necessary to write?

A Not the ones, I said, we told; those came in the office or called up, some were written to; some, I think, some of the delegates are in the room now; they received letters from me, asking them to come.

Q Approximately, was there a meeting on May 9 of the No-Conscription league?

A It was our first meeting.

Q Do you remember what kind of a day it was, Sunday, Monday, Tuesday, etc.?

A May 9, Wednesday, I think.

Q Was May 23rd a Wednesday?

A Yes, sir.

Q You can find out from the calendar; I do not remember

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myself, I have no idea about the matter.

MR. CONTENT: You are not on the witness stand.

Q The first meeting of the No-Conscription League was on May 9, probably a Wednesday, and the next meeting May 23rd--

A The next meeting was the 16th.

Q Was that a Wednesday?

A Well, I could not tell you without looking.

THE COURT: May 23rd was a Wednesday; subtract seven from the date of Wednesday and you will have it.

Q May 9 was a Wednesday, May 16 was a Wednesday, and May 23rd was a Wednesday; do you remember at this first meeting we called, that the No-Conscription League would have a meeting every Wednesday?

A I believe that was the thing.

Q Those people I did not reach by phone, and those people who were not at the previous Wednesday meeting, and before the next meeting we would send them a postal card?

A Send them a postal card or a notice.

~~X Q Did you read the statement that Miss Goldman sent -- first of all, did we not refer to a statement or a letter, some kind of a statement~~

~~THE COURT: Do not lead.~~

Q When you received the letter from Miss Goldman from Springfield, did you read the letter and statement?

A I only read the statement, I did not have the letter.

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Q I mean the little note.

THE COURT: Are you asking what she did herself?

MR. CONTENT: Which was read at the meeting.

THE WITNESS: you mean, when I received the original in the office?

Q Received it in the mail.

A Certainly, I read it.

§8 Q You read the note, and you read the statement?

A Naturally, it was addressed to me.

Q And then you typewrote the statement?

A I typewrote the statement, yes, sir.

Q And then did you hear it read in the meeting?

A I read it myself.

Q So that you read the statement repeatedly?

MR. CONTENT: She has not said that at all.

Q I am asking, did you read the statement repeatedly?

A I read it when I received it, I typewrote it, and it was then read at the meeting.

Q I would like to say to the jury -- have you got a good memory?

A I think I have a pretty good memory.

~~MR. BERKMAN: I merely want to point out --~~

~~MR. CONTENT: Now wait a minute.~~

~~THE COURT: No argument.~~

~~MR. BERKMAN: To explain why I asked the question. X~~

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~~THE COURT: She said she read the letter, typewrote it, or typewrote the statement enclosed, and read the typewritten statement to the meeting of May 23rd; she said that a number of times.~~

~~Q You have a good memory?~~

~~THE COURT: Yes, she also said that.~~

CROSS EXAMINATION BY MR. CONTENT: .

Q Now, Miss Fitzgerald, this letter, the personal note, which you destroyed, you did not take that to the meeting of May 23rd?

A I did not, Mr. Content, I explained that.

Q You did not make a copy of it?

A There was no necessity for that.

Q You did not make a copy of it?

A I did not.

Q Do you usually destroy Miss Goldman's letters to you?

A Some I destroy, some I do not destroy; I think I have destroyed all her letters.

Q You think you have?

A I think I destroyed all the letters.

Q You say her handwriting is hard to read?

A I destroyed all letters whenever it was necessary, I destroyed them, because I did not want to be burdened with them.

Q I see. You looked through the files with one of the

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officers, the other day, in order to find this letter?

A I did conscientiously; first I said I did casually. So -- I spent half an hour down on them with this gentleman; there was another man who unlocked the door; I looked through all the papers.

Q You did not find anything missing or destroyed by the District Attorney?

A I did not look for anything else; I was looking specifically for that.

Q There were a great many papers there?

A Yes, there were a great many papers there.

Q You say Miss Goldman has an illegible handwriting?

A Yes, sir, Miss Goldman has an illegible handwriting; it would be pretty difficult for anyone not used to her handwriting to read it.

Q You think that you usually destroy her letters after they are received?

A I destroy all letters.

Q I show you some of Miss Goldman's letter, and ask you whether the inscription reads, "Denver, July 3"?

A That is Miss Goldman's letter -- handwriting.

Q That is her handwriting, "Denver, July 3"; "Dearest Sash". Who is Sash?

MR. BERKMAN: May I explain?

MR. CONTENT: I am asking who Sash is.

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A That is a personal matter. The one who wrote that --

Q I am cross-examining; who is Sash, do you know?

MR. BERKMAN: Please answer.

Q Do you know who is Sash?

~~A Who Sash is?~~

~~Q Yes?~~

A Well, Sash is Russian for Alexander; Miss Goldman has addressed Mr. Berkman as Sash.

Q That is a letter addressed to Mr. Berkman. Here is another letter from Chicago, July 16, quite a long letter; is that Miss Goldman's handwriting (handing paper)?

A Yes, sir, that is Miss Goldman's handwriting.

Q "E" stands for Emma, I suppose; these are all illegible, or am I reading them correctly? "Dearest Sash" --

X MR. BERKMAN: I object to reading personal letters; I think it is very indiscreet and immoral on the part of the District Attorney; he knows better. Now, this letter is not addressed to Miss Fitzgerald, but to Mr. Berkman. What business have you to read it here? I consider it is a damned outrage; I apologize to the Court.

THE COURT: There is no use getting excited; the District Attorney has a perfect right to call the attention of the witness to certain letters if he found them, and he has a perfect right to ascertain whether the handwriting is legible or not legible. You will let

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me see the letters. (handed to the Court)

MR. BERKMAN: It has been said by Miss Fitzgerald that she considers the handwriting of Miss Goldman as illegible. I think reading my personal letters very indiscreet; I do not know what is in the letter.

MR. CONTENT: I do not know either; I did not read the letter.

MR. BERKMAN: You started to read it, and I stopped it.

MR. CONTENT: I have not read these letters; I have not the slightest idea what is in any of these letters. I simply used them for the purpose of showing her handwriting was not illegible; I merely wanted to show that a near-sighted gentleman like myself could read ^{them}. I do not know what is in any of them; I do not care; what is more.

89 THE COURT: I think I have arrived at a solution.

I will let the defendants go over these letters, this particular letter that the District Attorney started to ask the contents of; there is nothing at all of any character that is personal in the sense of disclosing private or personal affairs --

MR. CONTENT: Suppose you just take the first page.

THE COURT: Let the District Attorney show the defendants these letters, and in each letter you select a half or a quarter of a page, simply for the purpose of showing the character of the handwriting. You may select something

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that is quite innocuous; for instance, beginning in that letter --

MR. BERKMAN: I will object to reading any of these letters, to use the letters as copies. I do not think it fair. Miss Goldman is known to travel around a great deal.

THE COURT: You are arriving at a conclusion, and bringing up a situation that does not exist. There is no purpose on the part of the Court, at least, to allow in evidence any letter that has to do with mere personal or private matter; I only desire to allow in evidence some few lines, containing no information of a personal character, entirely innocuous in itself, to show the character of the handwriting, that is all. Instead of doing as I have thought to do, to allow the whole letter to go to the jury for that purpose, I have allowed you to select some few lines of an innocuous character, solely for the purpose of the handwriting and nothing else. I haven't allowed all the items and statements that have nothing to do with the case; simply for the purpose of the handwriting. Now you may select any four or five lines, containing no intelligent reference to any private matters.

~~MISS GOLDMAN: May I say a word?~~

~~THE COURT: Yes.~~

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MISS GOLDMAN: I have no objection whatever to anything which is not of a personal nature, being read or shown to the jury; I wish to call your Honor's attention to the fact that a letter written in ink, sitting down at a table, would naturally be entirely different than a letter written on a fast running train with a pencil.

THE COURT: That, Miss Goldman, is a matter of argument; there is no testimony when the letter was written, and there can't be any until the person who wrote it herself testifies here, if she so concludes. In any litigation, whether civil or criminal, the Court would not allow to have introduced some purely personal matter which is utterly immaterial. Two persons may write to each other in regard to a great many things, formal affairs, personal affairs, what not, utterly immaterial. And the sole purpose, I call your attention to, and I trust quite clearly, is simply to select something or other there which is entirely innocuous, and irrelevant, except on the point of disclosing the handwriting, which the District Attorney in view of the remark of Miss Fitzgerald, has as a matter of law a right to do. There is no occasion --

MR. BERKMAN: I have no objection to it being read.

MR. CONTENT: This only goes to her credibility. I want to state I have not read the rest; I have only

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read the first page; I will confine my question to that.

~~THE COURT: Very well.~~

Q I ask you to look over my shoulder while I am reading the letter, to see if I am reading it correctly: "Denver, July 3rd" --

~~X MR. BERKMAN: It seems to me that to prove that -- he said he had many letters from Miss Goldman here in his possession.~~

~~MR. CONTENT: I never stated anything but "Forest Sash" before.~~ *

THE COURT: Let it be marked in evidence.

MR. CONTENT: I offer it in evidence.

(Marked in evidence as Government's Exhibit No. 57).

MR. CONTENT: I would like to have the rest of them marked for identification, merely to show that they are Miss Goldman's letters for the purpose of comparison.

~~✓ THE WITNESS: I was not talking of Mr. Berkman's letters, Mr. Content; I said I was not sure I had any letters.~~

(Letters marked Government's Exhibits 58 and 59 for identification).

Q These are letters it will take one-half of a storehouse to hold?

A I was not talking of anyone else's letters.

~~MR. BERKMAN: May I look at the letters?~~ *

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~~MR. CONTENT: I am having them marked.~~

~~THE COURT: you may look at them in a moment.~~

~~MR. CONTENT: That is all.~~

B E R N A R D L . M I C H A E L S , a witness called
on behalf of the defendants, being first duly sworn,
testified as follows:

DIRECT EXAMINATION BY MR. BERKMAN:

Q Mr. Michaels, what is your business?

A I am in the advertising novelty business.

Q How long ago have you had an office at 20 East 125th
street?

A I still have an office there; I had an office for two
years.

Q You still have an office there?

A Yes, sir.

Q How long have you known me?

A Well, from the time you moved in, or a day or two later;
I do not know how many years it is.

Q You know Miss Goldman?

A I certainly do.

Q Since the time she moved in the house?

A Yes, sir. Since the time she moved in the house.

Q Do you know I was absent from New York for some time?

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A Possibly at times; I did not know anything of what was going on in your office, because I was seldom there.

Q Well, now, I mean a few months ago I was not in New York?

A Yes, sir.

Q And you have not seen me for some time?

A That may be.

Q Do you remember me asking you about your office?

A You did not ask me. A young man asked me about my office.

Q Do you remember his name; please describe him?

A He is a Swedish man.

THE COURT: Give us his name; it may refresh his recollection.

MR. BERKMAN: Samuel Neerwante.

THE COURT: Is he in court?

MR. BERKMAN: No, he is not.

Q You may describe him?

A He was a Swedish looking fellow.

Q A tall blond?

A Yes, sir.

Q Do you recollect whether he is in my office?

A That I do not know.

Q He spoke to you about renting your rooms; are you sure about it? X

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X
A Not renting the room; there was an empty office right next to mine where I had stored some stuff, where I was given permission about two or three years ago from Mr. Barnett. He said he had no objection to my putting it there.

Q You told Mr. Neerwante you had no objection?

A No objection at all.

Q You knew, did you not, that the Blast had an office in back of your office?

A Well, no, that I did not know. Now, one moment. As you know, I generally came to the office once or twice a week because I have a store on 125th street, I get all of my ^mail at the store. You knew that, you have taken care of my messages, things of that kind for me.

Q Your office is at 20 East 125th street, isn't it, front or back?

A In the front.

Q It is in the front?

A Yes, sir.

Q You said you gave Mr. Neerwante permission to use the office?

A Not in that way. Let me explain in my own way. There was an empty room I got because for about four or five years I had a store at 31 West 125th street, and I got out -- had a lease over my head. I at that time asked Mr. Barnett X

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X
if I could use the front room to store some goods; he said go ahead. At that time, or at any time the office is rented I will vacate. Until that time, and until this, it has not been rented; I have used that. That is my whole story; that is all.

Q Have you objected to the --

A No; the same way I gave permission to Miss Goldman to use one closet, which she has, because I had no use for it.

CROSS EXAMINATION BY MR. CONTENT:

Q You were not paid rental either by Miss Goldman or Mr. Berkman?

A No, sir. X

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H E L E N B O A R D M A N , resumed the stand.

CROSS EXAMINATION BY MR. CONTENT:

Q Miss Boardman, I just want to ask you a few questions.

You say you attended the meeting on the 18th of May; you attended the meeting?

A Yes, sir.

Q At the Harlem River Casino?

A Yes, sir. .

Q Did you also attend the Hunt's Point Meeting on June 4?

A Yes, sir.

Q Well, now you stated -- or what did Miss Goldman state in her speech of May 18th, according to your recollection?

A She said that she would not advise persons in regard to registration, because she did not believe in dictating another person's course of action.

Q What else did she say during that speech?

A Well, her speech was on the subject of conscription, covered it generally.

90 Q Do you remember any other phrase which she used outside of this one, to which you have already testified?

A I did not mean that as a quotation from her speech.

Q I did not mean an exact quotation, I mean just the phrase on a particular phase of her speech; I quite understood you. I do not mean you could give it verbatim, you explained

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that on your direct examination. I mean, can you remember any other phrase that was made, not verbatim, but in substance?

A She said she was opposed to conscription, opposed to war.

Q She said she was opposed to conscription? and opposed to war?

A Yes, sir.

Q Anything else?

A It is a little difficult to recall just now.

Q Did she refer to Russia in any way?

A Yes, sir.

Q What did she say about Russia?

A She was referring to Russia, the free Russia, and the revolution in Russia.

Q What did she say about free Russia?

~~MR. BERKMAN: I object to it.~~

~~MR. CONTENT: I am cross-examining.~~

~~MR. BERKMAN: I have a right to object.~~

~~MR. CONTENT: Make your examination.~~

~~MR. BERKMAN: I make the objection on the ground a person would not remember a speech of two months ago.~~

~~MR. CONTENT: That is excellent argument, but no objection.~~

~~THE COURT: The District Attorney has a perfect right so far as he can to test the memory of a witness, to as-~~

The Emma Goldman Papers

850812038

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~~X certain what the recollection is, and what credibility should be given to the testimony, that is a very old rule.~~

~~MR. BERKMAN: The objection is withdrawn. X~~

Q What is your recollection of what she said about free Russia?

A I believe she said that Russia is in a freer position than America.

Q Do you remember any of the remarks at the Hunt's Point Palace meeting on June 4th, in the Bronx?

A No, I did not hear the speeches.

Q You did not hear any speeches?

A I was in the back of the hall; I was surrounded by soldiers; it was not very quiet.

Q Miss Goldman spoke loudly and clearly that evening?

A Yes, but I was busy, I was taking up a collection.

THE COURT: Where were you, in the back of the hall?

THE WITNESS: Yes, sir; but the most of the time I was in the box.

Q Did you hear Mr. Berkman's speech on June 4?

A Well, no.

Q Where were you ^{during} ~~doing~~ his speech?

A I was also at the back of the hall.

Q Don't you know no collection was taken up during his speech?

A No collection was taken up during his speech, because

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I was simply standing at the back of the hall, moving about; there were a great many people standing all around about me; I heard fragments of it.

Q Do you remember anything Alexander Berkman said on June 4th?

A No, sir.

Q Do you remember anything Emma Goldman said on June 4?

A All I heard of her speech was at the time when the soldiers tried to create a disturbance in the hall, or ^{quarreling} ~~quib-~~bling with the crowd.

Q Don't you confuse the May 18th speech and the June 4th speech with reference to the remarks and the matter of registration?

A No, not at all.

Q Who spoke besides Miss Goldman on May 18th?

A May 18th?

Q Yes, at the Harlem River Casino?

A Mr. Abbott, Mr. Weinberger, and Mr. Berkman.

Q Is that all?

A That is all I remember.

Q Did Mr. Carlo Tresca speak?

A I do not remember the name; somebody else spoke besides them; I do not remember who it was.

Q Do you know Mr. Tresca, an Italian?

A No, sir, I do not. During part of that meeting I

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was standing in the lower part of the hall, I was not able to hear any speeches while I was there; I walked up afterwards into the box and I heard Miss Goldman's speech very distinctly.

Q How far away were you from the stage while Miss Goldman was speaking?

A I can't tell. I think it was about the fourth box away from the stage.

Q She could be heard distinctly there?

A I could hear quite distinctly by leaning forward, and concentrating entirely upon it.

Q Miss Goldman is quite a speaker?

A Very good.

Q She enunciates clearly and distinctly?

A Yes.

Q As good as most women orators, or does it even better; would you consider her better than most female speakers?

A Better than most speakers.

~~MR. CONTENT: That includes the whole. That is all.~~

BY THE COURT:

Q You stated that you belonged to some educational associations?

A Yes, sir.

Q Where is its office?

A 70 Fifth avenue.

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Q Who are the directors of that organization, the managers or what?

A It is run by a committee.

Q Who are on the committee?

A Mr. Webster Mitchell, Miss Hunt, Harriet Johnson, and Miss Dallas.

Q Now, were you a member of this No-Conscription League?

A Yes, sir.

Q Did you attend the meeting of May 16th?

A The meeting of May 16th? No.

Q Did you attend the meeting of May 23rd?

A Yes, sir.

Q At Miss Goldman's house?

A Yes, sir.

Q Have you attended all other public meetings?

A No, not all of them.

Q Well, in addition to the two meetings that you have referred to, have you attended any other public meetings?

A I went to the meeting at Forward Hall, we were unable to get in.

Q Do you remember all of them?

A I could probably, the date.

BY MR. BERKMAN:

Q Now, the private meeting, private, I mean the meeting other than when the general public were invited, how many of

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those have you attended?

A Only one.

Q That is the one of May 23rd?

A Yes, sir.

Q How long have you known Mr. Berkman?

A I only met Mr. Berkman once.

Q How long have you known Miss Goldman?

Q I have met Miss Goldman twice.

~~BY MR. CONTENT:~~

~~Q May I ask, were you at the meeting at Forward Hall on East Broadway on June 14th?~~

~~THE COURT: She was there, she did not get in.~~

~~Q You did not hear the speeches that night?~~

~~A No, sir.~~

~~Q Were you at the Royal Lyceum, at 10 West 11th Street?~~

~~A No, sir.~~

~~Q Are you a member of any anarchistic society?~~

~~A No, I am not an anarchist.~~

BY MR. BERKMAN:

Q Miss Boardman, do you remember the time when I spoke at the Hunt's Point Palace?

A Yes, sir.

Q Do you remember whether there was any noise on the part of some persons there?

A Yes.

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Q Throwing things?

A Yes, sir.

Q Shouting?

A Yes, sir.

Q You were in the back, in the audience?

A Yes, sir.

Q Would not be anything unusual if you did not hear us under those circumstances?

A No.

~~MR. BERKMAN: I would like to know whether we can finish up our character witnesses; we have two or three witnesses who want to get away.~~

THE COURT: I have no objection to your changing your order of proof. Miss Boardman can be withdrawn and called again. They have some people who want to get away.

~~MR. CONTENT: I have no further questions.~~

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P I E T R O A L L E G R A , a witness called on behalf
of the defendants, being first duly sworn, testified
as follows:

DIRECT EXAMINATION BY MISS GOLDMAN:

Q Where do you live?

A 65 Webster avenue, Long Island City.

Q Where are you working?

A At the Novelty Company, Long Island, at some factory
in Long Island City.

Q How long were you working at that place?

A Eleven years.

Q Have you been at the Harlem River Casino?

A Yes, sir.

Q The meeting on the 18th of May?

A Yes, sir.

Q Where were you in the hall?

A On the platform?

~~THE COURT: On the platform?~~

~~THE WITNESS: On the platform, yes, sir.~~

Q Did you see me on the platform before speaking?

A Absolutely no.

Q You heard me speak?

A Yes, sir.

Q Can you approximately remember the gist?

A The which?

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Q Can you remember the gist? Can you remember my saying I believed in violence, and we will use violence?

A Never you say this.

Q Can you remember parts of the address, the speech made by me that evening?

A Yes. You talk against war, and about conscription, I was an anarchist and I would not tell what to do. It is unnatural, an anarchist would not tell people what to do.

Q As an anarchist, I did not order people what to do?

A Sure.

Q Excepting to ask them to assist. You say you were on the platform of the Harlem River Casino?

A Yes, sir.

~~Q Do you recollect seeing a soldier come to Mr. Berkman?~~

~~A I am sorry to tell you I did not. I am telling you what I feel.~~

~~MR. CONTENT: You are not asked what you feel.~~

~~THE COURT: You must not answer in that way. You must say yes or no.~~

~~THE WITNESS: I beg your pardon, it is all right.~~

Q I mean, did you see a soldier walk up to Mr. Berkman?

A Never.

Q Mr. Berkman then had this sore foot, did he not?

A Yes, sir.

Q Were there friends near him?

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A Yes, sir.

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Q So as to protect his foot?

A Sure.

Q You have known me for awhile, have you?

A For a long time.

Q Have you attended many of my lectures?

A Many meetings; before the war, too.

Q Did you hear me at any time say we believe in violence and we will use violence?

A Never.

Q Did you read some of the things --

A I did.

Q Some of my work^s, for instance?

A Yes.

~~X MISS GOLDMAN: I suppose it is put in evidence, and I would like to ask the question whether he read in Mother Earth that we believed in violence.~~

~~THE COURT: The articles speak for themselves; what they say, they say.~~

Q Did you hear me say at the meeting in the Harlem River Casino, anything in relation to conscription and registration?

A I heard before, you say, as an anarchist, you cannot tell what you got to do, do what you please.

THE COURT: What is that? As an anarchist, you heard her say, you cannot tell, you do what you please?

THE WITNESS: Exactly.

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~~THE COURT: Now, go ahead.~~

~~THE WITNESS: That is all.~~

THE COURT: Did you hear anything about conscription, that is what Miss Goldman asked you.

THE WITNESS: About conscription? The conscription is against the law, against the Constitution of the United States.

THE COURT: You heard Miss Goldman say it is against the Constitution of the United States?

MISS GOLDMAN: I think perhaps he did not understand.

Q I did not mean to ask you what you thought about conscription or about registration; I asked you approximately what you heard me say at the meeting.

THE COURT: What did you hear Miss Goldman say?

THE WITNESS: I do not remember; that is my idea --

THE COURT: You do not remember what you said?

THE WITNESS: No, sir.

THE COURT: When you spoke about the constitution of the United States, you were talking about your own view?

THE WITNESS: Yes, sir.

~~MISS GOLDMAN: I think that is all.~~

BY MR. BERKMAN:

Q Mr. Allegra, you stated you were on the platform at the mass meeting of May 18th?

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A Yes, sir, May 18th I was -- that is the first mass meeting.

THE COURT: At the Harlem River Casino.

Q On the platform?

A Yes, sir.

Q You had business there?

A I must speak at that time.

Q You were to be one of the speakers?

A Yes, sir.

Q Did you speak there?

A No, I did not speak, because the soldiers and the sailors started some disturbance to provoke the people.

Q That meeting was one -- do you remember all the speakers who spoke?

A Yes, sir.

Q Mr. Tresca, who was mentioned here, was he a speaker?

A No, he is not a speaker.

Q Did he speak at the meeting?

A Who, Tresca?

Q Yes.

A No.

Q Was he there?

A No, sir.

Q At that meeting you were on the platform, do you remember where I was sitting on the platform, or standing, be-

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fore I spoke?

A No, sir; you sat just the same position you sit now.

Q Were there many people around me?

A Yes, sir.

~~THE COURT: He said that.~~

~~MR. CONTENT: He said that in response to Miss Goldman's question.~~

~~MR. BERKMAN: That is all.~~

CROSS EXAMINATION BY MR. CONTENT:

Q Now, Mr. Allegra, how old are you?

A How old?

Q Yes.

A I am ashamed to tell, forty-one.

Q Where were you born?

A In Italy.

Q When did you come to the United States?

A Why?

Q When?

A About ten or eleven years ago.

Q You are an American citizen?

A I have a paper, too.

Start Q What is that?

A I have a paper.

Q You completed your naturalization?

THE COURT: He wants to know whether you are an

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American citizen.

THE WITNESS: Yes, sir.

Q Were you admitted to citizenship?

A Yes, sir.

Q And got your final papers?

A Yes, sir. The last papers.

Q When?

A About four years ago, I guess.

Q Where?

A In Long Island.

Q What court?

A Jamaica.

Q Jamaica Supreme Court?

MR. BERKMAN: I object to it; what has that got to do with the case?

THE COURT: Overruled.

Q The Supreme Court?

A I do not remember.

Q Do you remember the Judge's name?

A No, sir.

Q Are you an anarchist?

A Well, if you answer, you tell something about it.

Before, I was a Socialist; before this war; I am so disgusted about this war, it is enough to make a man an anarchist.

THE COURT: "I am so disgusted" -- you mean you are

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an anarchist now? Are you now an anarchist?

THE WITNESS: I say, I feel I am to be an anarchist; I am so disgusted with this war; I find out everybody is a liar; I find it is a terrible struggle against the working people, because they are being antagonized in business --

Q You have even addressed meetings, street meetings and otherwise?

A All over, addressing meetings.

Q You usually speak in Italian?

A Yes, sir, all over the United States.

~~Q Did you speak at the Union Square demonstration, at the time Carson, Hauser and Berg were killed by a bomb?~~

~~MR. BERKMAN: I must object.~~

~~THE COURT: The objection is sustained. You may ask if he spoke at the Union Square meeting.~~

~~Q In July, 1914?~~

~~A I tell you, eleven years I have been in America.~~

~~THE COURT: You may answer that yes or no.~~

~~MR. BERKMAN: I object to it. I want to address the Court. The District Attorney has no right to ask questions on cross-examination, on subjects that have not been asked on the direct examination.~~

~~MR. CONTENT: I am testing his credibility.~~

~~THE COURT: You may have an exception. You may ask~~ X

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~~whether he spoke at Union Square.~~

Q Did you speak at the Union Square meeting in July, 1914? Yes or no.

A I do not remember. I remember I spoke, I spoke at Union Square hundreds of times, I do not remember the date.

Q Do you recall speaking at a meeting held in memoriam --

MR. BERKMAN: I object to it.

Q -- of Hauser, Berg and Carson; did you address the meeting?

MR. BERKMAN: That has nothing to do with this case.

THE COURT: I sustain the objection.

MR. CONTENT: Can I call his attention to which meeting I am referring to?

MR. BERKMAN: I have objected to it; it has been objected to.

THE COURT: I have sustained the objection.

Q Didn't you, in Union Square, in July, 1914, --

MR. BERKMAN: The same objection.

THE COURT: Do not answer.

MR. BERKMAN: 1914 has nothing to do with 1917.

Q Didn't you at a meeting in July, 1914, in Union Square, advocate that the policemen's heads be chopped off?

MR. BERKMAN: I object. You know it is not right.

THE COURT: The objection is sustained.

MR. CONTENT: I want to show he was an anarchist

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~~three years ago.~~

~~MR. BERKMAN: I distinctly did not ask the witness--~~

~~MR. CONTENT: That is all.~~

H A R R Y M . K E L L Y , a witness called on behalf
of the Defendants, being first duly sworn, testified
as follows:

DIRECT EXAMINATION BY MR. BERKMAN:

Q You write for magazines and papers?

A Yes, sir.

Q You have known me for a long time?

A A very long time.

Q How many years, approximately, have you known me?

A Personally, over eleven years.

Q Personally ten years?

A But through correspondence years before that.

Q Are you a native?

A Yes, sir.

Q Where were you born?

A In Missouri.

Q We have been friends a great many years?

A Yes, sir.

Q Do you know that my San Francisco office, in New York
was on the second floor of 20 East 125th street?

A Yes, sir.

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Q Was it a front room or a back room?

A A back room.

Q What is the front room?

A The front room is occupied by the man --

Q I am speaking of the second floor --

A The second floor, the second floor is occupied by Mother Earth.

Q While I was working in this City on the California matters, where was my office?

A Your office was on the second floor.

935 Q Where on the second floor, back or front?

A Back.

Q And Mother Earth was in the front at the same floor?

A Yes, sir.

Q Do you know whether I published a paper in California?

A Yes, sir.

Q What was the name of the paper?

A The Blast.

Q Do you know whether editions of the Blast have appeared in New York?

A Yes, sir.

Q Approximately how many?

A Two, I think; one I know.

Q You are a writer for The Blast?

A I am a writer, and occasionally contribute.

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Q When I decided to bring The Blast to New York, do you know whether I was looking for an office for it?

A Yes, sir.

Q Were you occupying any place at 20 East 125th street?

A Yes, sir, the third floor back.

Q You had the third floor back?

A Yes, sir.

Q Do you remember a conversation in which I asked you whether you are going to use your room during the summer?

A Yes, sir.

Q And what did you tell me?

A I told you no.

Q You said you were not going to use the room. Did I say on that occasion I would like to use your room for The Blast?

A Yes, sir.

Q What arrangements did we make about the room?

A Why, simply I was not there -- I was not sure whether I would keep the room permanently. I thought I would, but I knew I would not occupy it for that Summer, and I told you you could have it.

Q So far as you know, I have been using that room?

A I have been up there since, and you have.

~~MR. BERKMAN: That is all.~~

THE COURT: What magazines do you write for, Mr. Kelly?

The Emma Goldman Papers

850812038

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THE WITNESS: Why, I have contributed considerably to Mother Earth, The Blast, and a magazine I am interested myself in, Modern Psychology.

MR. CONTENT: No questions. That is all.

A N N A S L O A N , a witness called on behalf of the defendants, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MISS GOLDMAN:

Q What is your profession?

A Housekeeper.

Q Have you any connection with art?

A I am married to an artist.

Q The famous American painter, John Sloan?

A Thank you, Miss Goldman.

Q Have you known me for some time, Mrs. Sloan?

A Ten years.

Q In what way have you known me?

A I have known you intimately, both socially and in doing our work, birth control, strikes, taking care of strikers' children, what we think is wrong with the world, and what we have to do to correct the evils of the world.

Q During your different associations with me in work and socially, have we occasionally discussed different theories?

A We have, Miss Goldman.

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Q Have we discussed anything pertaining to questions of violence?

A Yes, Miss Goldman.

Q And can you approximately recollect in what connection?

A I remember one day that we talked, I distinctly asked you if you believed in violence, and you said "Ann, I do not believe in violence; I do not believe in anything that would not be explained".

Q Were you at the Harlem River Casino meeting on May 18?

A I was.

Q Could you hear the speeches?

A I could hear the speeches, yes, ma'am.

Q You heard me speak?

A I did, Miss Goldman.

Q Can you recollect whether at any time during that address that evening, I said we believed in violence and we will use violence?

A I did not hear you say anything of that kind, Miss Goldman.

Q If you would have heard me, I mean, would it have been anything that you remembered?

A I would have remembered it, because I would have been shocked, after our conversation regarding that.

Q Mrs. Sloan, you stated we were drawn together a great deal in work, birth control, and other matters; have you any

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recollection whether we were in the habit of exchanging lists of different people?

A We always ~~am~~ exchanged lists.

Q Liberal people interested in different ideas?

A Yes, ma'am.

Q And in all the time you have known me, can you recollect any incident in the work in which we were drawn together, whether it was my habit to send out letters indiscriminately to people, regardless of whether they would be interested or not?

A I know you did nothing of that kind, Miss Goldman; I suggested names -- we suggested names to each other, who would suggest other people who might be interested in our work. Then I gave you names for the Russian lecture course, whom I tried to reach for you.

Q Do you remember the name of a lady and gentleman, Demarest?

A Mrs. Demarest is one of the names I suggested among the persons who would be interested in the Russian lecture course, in the so-called radical movement.

Q And then you gave me the names?

A I gave you the names, suggesting those names be used.

Q Mrs. Sloan, you have received letters from me occasionally, have you?

A I have, yes, Miss Goldman.

Q In handwriting?

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A I received handwritten letters from you, and I wrote you and asked you please not to write handwritten letters, because I had to get Mr. Sloan to translate them, he did not like it any more.

Q You found it difficult to decipher my writing?

A I did, Miss Goldman.

BY MR. BERKMAN:

Q At the Harlem River Casino meeting, did you hear Miss Goldman or Mr. Berkman tell the people to register or not to register, advise or urge them not to register?

A No.

Q Did you hear any other speakers advise people to register or not to register?

A No, sir.

Q We had conversations on various matters connected with the movement we are interested in?

A Yes, sir.

Q Did you hear me express any opinion with regard to advising people not to register?

A I asked you one day what you were going to do, and you said it was something that everybody in his own conscience should determine.

Q Mrs. Sloan, when did you meet me personally?

A During the strike, I think it was 1911.

Q The strike in 1911?

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A Yes, sir.

X Q ~~Are you aware I was in California?~~

A I know that you were in San Francisco -- may I --

THE COURT: I really do not see why we should go further on this. The Government does not dispute the fact that you were in San Francisco; Mrs. Sloan has said you were there. ✓

Q You met me again when I returned from the Coast?

A Last October.

Q Do you know why I came then; for what purpose I came to New York?

A I knew after Miss Goldman told me you were here representing Thomas Mooney and his co-defendants, sent by organized labor in San Francisco, to help get publicity and money to save the lives of the men and women condemned to death out there.

Q Did you see my credentials of my California unions?

A I did not.

Q Did you hear me speak at the various labor unions in the City of New York?

A Yes, sir.

Q On behalf of the California labor?

A I did.

Q You heard me make my addresses?

A Yes, sir.

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Q Did you know I devoted all the time I was in New York to the California labor?

A I know you did.

~~X MR. CONTENT: What has that to do with this case?~~

~~MR. BERKMAN: It is material.~~

~~THE COURT: I do not see what it has to do. I will allow it just the same. X~~

~~X Q Do you know whether I was getting paid for the work I was doing for California labor?~~

~~MR. CONTENT: I object to it.~~

~~THE COURT: What has your activities on behalf of the California business got to do with this case? X~~

Q Do you recollect seeing my California office in this City?

A I know you had a temporary office in 20 East 125th Street.

Q Was it front or back?

A In the back room.

Q Ever since The Blast was being published in New York, where did you know my office to be?

A At 20 East 125th street.

Q I mean, outside of the office in the back of the second floor?

A Upstairs, you got an office upstairs.

Q On the third floor, is that?

A On the third floor.

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Q You know I used also an office on the third floor?

A Yes, sir.

~~MISS GOLDMAN: May I ask instructions? Among the checks put in as evidence, here is a thousand-dollar check which went to San Francisco; it was offered in evidence. Also, the question of appropriating the funds to be sent to San Francisco is important.~~

~~MR. CONTENT: No check in evidence; three checks --~~

~~MR. BERKMAN: The check book.~~

~~MR. CONTENT: The stub of the book.~~

~~THE COURT: Is there any entry in the stub of a thousand dollars?~~

~~MR. CONTENT: I do not remember.~~

~~THE COURT: As long as Mrs. Sloan is here, you may ask her. *~~

~~BY MR. BERKMAN:~~

Q Mrs. Sloan, you heard me ask the labor organizations in this City for money for the California labor fund?

A I did, Mr. Berkman, yes, sir.

Q You heard me say I am here in behalf of the innocent labor men on trial?

A Yes, sir.

~~Q You heard me --~~

~~MR. CONTENT: On this examination, the check to which you undoubtedly refer, must have been dated before May 18, *~~

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~~and the stub is not dated; Mr. Berkman objected to anything before May 18th; at your Honor's direction I put a rubber band around it.~~

~~THE COURT: There is no check in evidence prior to the 18th of May.~~

~~MR. BERKMAN: I have no objection to any checks.~~

~~MR. CONTENT: You objected before; they were excluded after they were offered in evidence; they are not in evidence.~~

~~THE COURT: There are no checks in evidence prior to the 18th of May.~~

~~I will ask the question.~~ X

BY THE COURT:

Q As I understand it, you are the secretary and treasurer of this Mooney defense trial?

A Here in New York.

Q A considerable amount of money was collected?

A Quite a lot; Mr. Berkman representing the San Francisco labor fund, I turned it over to him, and he forwarded it to San Francisco; they knew him there, they did not know me.

Q If there is a check for \$1000, it is there?

A Yes, sir.

MR. CONTENT: It is May 9th, and it is not in evidence.

THE COURT: Very good.

MR. CONTENT: It was excluded on the defendants' objection.

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THE COURT: I understand. The defendants called attention to it. He said she was the secretary and treasurer of this Mooney defense fund, or whatever the proper name of it is, and various sums of money were collected, among them the thousand dollars which the defendant Berkman forwarded to California, for matters in connection with the fund.

~~BY MR. BERKMAN:~~

~~Q You also know several thousand dollars were all the proceeds of personal appeal in New York?~~

~~A Yes, sir.~~

~~Q And you know I am having the money in my hands?~~

~~A I know you had the money and then forwarded it to San Francisco.~~

~~Q You know I forwarded it to San Francisco?~~

~~A I know that.~~

~~Q By means of checks?~~

~~MR. CONTENT: What has that to do with this case?
He said he forwarded the money, and she said so.~~

~~MR. BERKMAN: It is important whether -- several checks have been mentioned --~~

~~MR. CONTENT: Nobody is accusing you of embezzlement or larceny.~~

~~MR. BERKMAN: Is there any objection to the question?~~

~~MR. CONTENT: On the ground that it is incompetent,~~

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~~Irrelevant and immaterial.~~

~~THE COURT: She stated that she gave the money in his hands. I will let him examine. I do not see myself what it has to do with the case, rather than have any doubt about the matter, you may exhaust the point.~~

~~Q Do you know I sent the money to San Francisco, cash or by check?~~

~~A I know that the last money that went to San Francisco, went by check; I know we had to get money out there quickly and we telegraphed.~~

~~Q Have you read The Blast at any time?~~

~~A I am a subscriber to The Blast, so I read it.~~

~~Q Do you know whether The Blast devotes its pages in behalf of the California labor?~~

~~MR. CONTENT: I object on the ground the Blast is the best evidence.~~

~~THE COURT: It is utterly immaterial.~~

~~MR. BERKMAN: I ask permission to put in the issues of The Blast.~~

~~THE COURT: We will deal with that when we come to it; whether Mrs. Sloan read the Blast, is highly immaterial.~~

~~Q Do you know how the articles in The Blast deal with war and militarism, from a labor standpoint?~~

~~MR. CONTENT: I object to it.~~

~~THE COURT: That comes under my ruling that I have~~

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frequently announced, that is, that the articles speak for themselves, and the jury are the best judges of those articles.

MR. BERKMAN: May I not ask the witness whether she is aware that my services were given to San Francisco free?

THE COURT: I will let you ask it.

MR. CONTENT: I object.

THE COURT: I have not the faintest idea what it has to do with the case. You may ask it.

Q Do you know whether I was getting paid for my work in behalf of the California labor unions?

MR. CONTENT: I object to it as immaterial.

THE COURT: Overruled.

A I know you were not paid for the services, for the work you did for San Francisco, but your expenses were paid.

Q My expenses were paid, but my work was not paid for?

A No, sir. ✓

CROSS EXAMINATION BY MR. CONTENT:

Q I did not hear the name of the association of which you were treasurer; what is the name of it again?

A I was secretary and treasurer of the New York Publicity Committee for the San Francisco International Workers Defense League.

Q What was the purpose of collecting the funds?

A What was the purpose of collecting the funds?

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To pay lawyers with, Mr. Content.

Q For what?

A To defend Thomas Mooney and his co-defendants, who we think are unjustly accused there of throwing a bomb in the Preparedness Parade in San Francisco.

95 Q They are charged with murder in the first degree?

A Yes, sir, they are. And the District Attorney is charged with subornation of perjury.

BY MR. BERKMAN:

Q As a matter of fact, you were instrumental in engaging Mr. Bourke Cockran of New York to go to San Francisco and defend the defendants?

A I was.

~~Q Are you aware the District Attorney in San Francisco has been publicly exposed for his conduct?~~

~~MR. CONTENT: I object.~~

~~THE COURT: Objection sustained.~~

BY THE COURT:

Q Are you a member of this No-Conscription League?

A No, sir, I am not a member.

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R E B E C C A S H E L L E Y , a witness called on
behalf of the Defendants, being first duly sworn, testi-
fied as follows:

DIRECT EXAMINATION BY MR. BERKMAN:

Q Miss Shelley, what is your occupation?

A I was a school teacher until 1914; since 1914 I have
been working on peace propaganda.

Q You belong to the Emergency Peace Federation?

A I am field secretary for the Emergency Peace Federation.

Q Field secretary?

A Yes, sir.

Q You are a graduate of some university?

A I am a graduate of the University of Michigan.

Q You are a native?

A Yes, sir, very much a native.

Q Your parents also?

A Yes, sir.

Q You are interested in educational matters?

A Yes, very decidedly.

Q You have been active in various movements that deal
with general education?

A Yes, sir, as a public school teacher I have been
rather active.

Q Do you remember a meeting on May 23rd?

A Yes, sir, I remember the meeting.

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Q A meeting that was had at Miss Goldman's apartment?

A Yes, sir.

Q Were you there?

A I was.

Q Was the Emergency Peace Federation invited to be present at the meeting?

A The Emergency peace Federation received a letter from -- in fact, I believe from Miss Fitzgerald, requesting the organization to send a delegate to a meeting of the No-Conscription League; I came unofficially representing the Emergency Peace Federation; we had no time to elect a delegate officially, and as there was no meeting of the executive committee I simply came in my own capacity.

Q Do you know of your own knowledge whether the Emergency peace federation received a letter from the No-Conscription League, signed by Miss Fitzgerald, inviting you to that meeting on May 23rd?

A Well, I am not absolutely sure that Miss Fitzgerald signed the letter; I think, however, she did. I remember Miss Fitzgerald was one of the names on the letterhead of which I have any recollection.

Q Was the letter on the official letterhead of the No-Conscription League?

A It was.

Q Will you state the character of the meeting?

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A I do not remember the exact wording of the letter, but as I recall it, the meeting was called for the purpose of discussing the attitude of the No-Conscription League on registration, and the organization of a mass meeting.

Q Was Miss Goldman present at the meeting?

A She was not.

Q Was Mr. Berkman present?

A Yes, Mr. Berkman was present.

~~Q You know the meeting originally was to be held at The Blast office?~~

~~A Yes, it was. I did not know to what place I was going, or what office I was going to, and I was very much surprised when I received -- when I came to the street number designated and found I was in the office of either the Mother Earth -- I had no idea I was going to the headquarters of Mother Earth.~~

~~Q Have you ever been present at Miss Goldman's apartment before?~~

~~A No, and not since.~~

~~Q You were rather surprised when you came up to that place?~~

~~MR. CONTENT: What has that got to do with it, whether she was surprised?~~

~~THE COURT: The fact is, when you got to the place on 125th street, did somebody tell you that the meeting~~

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~~was to be held elsewhere?~~

A ~~Yes, sir.~~

~~THE COURT: And then you went to her place?~~

~~THE WITNESS: Yes, sir.~~

Q ~~You were informed in 125th street that the place of meeting was changed?~~

A ~~Yes, sir.~~

Q ~~What was your understanding of the reason why it was changed?~~

A ~~I believe the place of meeting was changed because of Mr. Berkman's inability to go about freely?~~

Q At that meeting on May 23rd, you say Miss Goldman was not present?

A No, sir, she was not.

Q Was there anything said or mentioned why Miss Goldman was not present at that meeting?

A Yes, Miss Goldman was not present because of a previous engagement to speak elsewhere.

Q Was any word received from Miss Goldman?

A Yes, a letter was, as I have since heard, designated a statement, read from Miss Goldman.

✓ Q A statement was read ^{from} to Miss Goldman?

A Yes, sir.

Q Tell us as near as you can remember the contents of that statement?

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A The statement expressed Miss Goldman's regret that she was unable to be present at this meeting; she said a speaking engagement of previous standing compelled her to be absent. In this letter she expressed her desire that the members of the No-Conscription League and others who had looked to her for leadership and advice, stand true to the conviction, to their convictions, and be loyal to their consciences, be loyal to right as they understood it, with regard to the immediate pressing questions, that of registration.

Miss Goldman stated in this letter that she as an anarchist, did not propose to advise or urge anyone, either to register or not to register. I am not familiar with the science of anarchism, but I understood --

MR. CONTENT: I object, we do not want what the witness understood.

THE COURT: You are confined to giving your recollection of what was in the letter.

A I surmised -- the letter then apparently was in accordance with certain principles of the writer, she stated that she could not advise either to register or not to register, that would be taking the same sort of attitude that the writer objected to in the Government, when the Government attempted to use compulsion where matters of conscience are concerned. That embraces my recollection. I am not giving the exact wording.

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850812018

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Q You are absolutely certain such a letter or such a statement from Miss Goldman was read?

A Yes, I am certain.

Q What did the meeting do after the statement was read?

A The meeting then entered into a discussion of the questions of registration; I was unable to stay to the end of the meeting; I left between half past ten and eleven o'clock.

THE COURT: Who read the statement, do you remember?

THE WITNESS: I do not recollect exactly who read the statement.

~~Q Did you hear after you left the meeting, or at the next meeting, whether the No-Conscription League took official action on registration?~~

~~MR. CONTENT: I object to what she heard; she was not there at the meeting, and does not know what happened.~~

~~Q You left before --~~

~~THE COURT: You cannot show by her what is inadmissible as hearsay. You can prove by direct testimony, what, if anything, did take place.~~

~~Q You left early?~~

~~THE COURT: You left before any conclusion was arrived at, if there were any conclusions, is that correct?~~

~~THE WITNESS: yes, sir.~~

~~THE COURT: She may say what she heard at the meeting; she cannot say what somebody, or other people, told her; X~~

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~~that's the point.~~

Q Are you an anarchist?

A No, sir.

~~BY MISS GOLDMAN:~~

~~Q Miss Shelley, may I ask you whether since you are interested in peace work, whether you attended any other meetings held by the No Conscription League?~~

~~A No, ma'am, Miss Goldman, I did not attend any other meeting.~~

~~Q You were not at the Harlem River Casino meeting?~~

~~A No, ma'am, I was not.~~

~~Q You were not?~~

~~A No, ma'am, I was not.~~

CROSS EXAMINATION BY MR. CONTENT:

Q How do you know the statement was from Miss Goldman; that the statement was from Miss Goldman?

A I do not know the statement was from Miss Goldman, except I took the word of those who presented the statement and read the statement.

Q You do not know whence it originated, yourself?

A Of course not; I only took the word of those who read the statement.

Q What kind of a statement was it, I mean typewritten or written?

A I do not know; I saw only the back of the pages or page, but I could not at that time have told whether typewritten or written.

Q You do not remember who read it?

A I can recollect Miss Fitzgerald began to read it and

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wd2 somebody else finished, although I am not positive 500
of it.

Q Do you know who else was at the meeting, anyone else?

A Miss Boardman.

Q Did you know her before, before the date of that
meeting?

A I had seen her, I did not know her personally; I have
since become personally acquainted with her.

Q Up to that time you were not personally acquainted with
her?

A No, sir.

Q Who else was there beside Miss Boardman, Miss Fitzger-
ald and Mr. Berkman.

A Mr. Weinberger arrived there.

Q You mean Mr. Harry Weinberger?

A Yes, sir.

Q A lawyer?

A Yes, sir. Professor Dana was also there.

Q Of Columbia, you mean?

A Yes, sir.

Q Anybody else that you recall?

A No. I did not know many people in the crowd.

~~BY MR. BERKMAN:~~

~~Q When the statement was read was there any announcement,
before or after, from whom the statement was?~~

~~A It was announced a statement had been received from
Miss Goldman and would be read.~~

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✓ Q ~~A statement was received from Miss Goldman?~~

A ~~Yes, sir.~~

Q ~~Was it explained why Miss Goldman was not there in person?~~

A ~~Yes, sir.~~

Q ~~Was there any reason in the world to doubt the statement was as announced?~~

MR. CONTENT: ~~I object.~~

THE COURT: ~~Objection sustained.~~
BY MR. BERKMAN:

Q You saw Mr. Harry Weinberger at that meeting of May 23?

A Yes, sir.

Q Do you remember members present asking Mr. Weinberger for his legal advice?

A Yes, sir.

Q And you heard Mr. Weinberger speak there and give legal advice?

A Mr. Weinberger gave various legal aspects on the question of registration; I do not think Mr. Weinberger would call it advice, he was giving a legal opinion on the various aspects.

Q He gave a legal opinion on the various aspects, you say on this question of militarism and war and everything?

MR. CONTENT: She said registration.

THE COURT: What subject did he talk about, did he

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refer to, Mr. Weinberger?

THE WITNESS: He referred particularly to the question of registration and its relation to conscription, its relation -- its possible relation to enforced industrial service; its possible relation to enforced industrial service.

BY MR. CONTENT:

Q Tell us all what he said, tell all you remember Weinberger said?

A I believe I have told everything I remember about what Mr. Weinberger said.

THE COURT: You haven't told us anything; you think you have; you said -- you simply characterized what he did; what did he say about the legal aspects?

THE WITNESS: The question -- the particular question that seemed to be agitating the young men present at the meeting was this, if we register, do we through registration come under military law. Mr. Weinberger expressed both sides of that.

And then explained the possible results of registration as far as coming under military law was concerned. He said, according to one opinion, one may come under military law, and according to other opinions ^{one} would not come under military law. The conscientious objector to war might be

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X tried under military law, but that, I believe -- as far as the law, that was problematical, not certain.

BY MR. CONTENT:

Q Did he state the legal effect of not registering?

A Yes, sir.

Q What did he say about that?

A As near as I can recollect, Mr. Weinberger said that if one refused to register, he was imprisoned -- he would be imprisoned from one day to one year, if he refused to register.

THE COURT: You say there was some young men present?

THE WITNESS: Yes, sir.

THE COURT: What do you mean by young men; you mean young men in the twenties?

THE WITNESS: Young men in the twenties?

THE COURT: How many of them?

THE WITNESS: I should say there were from twenty to twenty-five, men between twenty-one and thirty-one present.

THE COURT: In the so called draft age?

THE WITNESS: Yes, sir.

THE COURT: Some of them asked for advice, did they?

THE WITNESS: Yes, sir.

THE COURT: Weinberger gave this yes or no opinion,

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did he?

THE WITNESS: Yes, sir. He gave the legal aspect of that, which was in the nature of a legal opinion; the legal opinion not being clear in the sense it had not been determined whether or not young men would come under military law if they registered.

THE COURT: Let us get that clear; you may not be familiar with the exact technicality. You say military law, were you referring to law -- was he referring to law administered by the military authorities, or the law relating to the so-called draft act as administered by the civil authorities? I mean, what do you mean by military law -- I don't mean what you mean, what did he say about that; did he point out any distinction between military and civil law?

THE WITNESS: Yes. As near as I understood -- I understood Mr. Weinberger, one of the questions at issue, upon which he spoke was this; if a young man -- if a man registered, then there was the possibility of calling upon the others who were not taken for military service for industrial service; and the question which a number of men asked was this question, can we then, subject to military law, be drafted for industrial service, whether or not we are not taken for military service, could they be drafted

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for industrial service, must we go under the military law, or do we retain our civil right, the right to refuse to work where we do not want to work.

THE COURT: That was what you understood him to say as I understand it; you just stated what you understood him to say?

THE WITNESS: Yes, sir.

THE COURT: Was there any question asked by anybody at that meeting as to the legal effect of advising persons not to register?

THE WITNESS: I have no distinct recollection of anything being said at that meeting.

THE COURT: Well, is it correct to say there was no discussion upon that subject at all?

THE WITNESS: No, I think that would not be correct.

THE COURT: What discussion was there at this meeting so far as your memory serves you?

THE WITNESS: As far as my memory serves me there was an appreciation of the fact that advice --

THE COURT: No appreciation?

THE WITNESS: Appreciation expressed that advice not to register would land the person so advising in jail.

THE COURT: Who said that?

THE WITNESS: I do not remember who said it. I carefully

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said, there seemed to be an appreciation expressed of that fact.

THE COURT: Who said that?

THE WITNESS: I do not remember.

THE COURT: Was there any discussion in addition to what you have told us about actual service under the draft act; was there anything more on that subject?

THE WITNESS: Well, actual service under the draft act would mean conscription; there was discussion — some discussion on conscription.

THE COURT: What happened about that?

THE WITNESS: Well, of course —

THE COURT: Let me correct that. No one can expect you to remember every word said about that; you are only asked for your best recollection.

THE WITNESS: A number of men there expressed their opinion that conscription was contrary to their convictions.

THE COURT: Was there anything said then by anybody after such an expression of opinion?

THE WITNESS: A number of men said they were going to stand by their conviction.

THE COURT: That is to say they were going to refuse to do what?

THE WITNESS: Well, I suppose it might be interpreted

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they would refuse to be conscripted; the chief import of the entire meeting was the discussion of registration, and that was my chief impression, the chief impression carried away from the meeting; I scarcely think it is fair to expect me to remember what was said about conscription.

THE COURT: I have already indicated you can only be expected to give your best recollection. Now, do you remember whether anyone there said, whether it was Mr. Weinberger or anyone else in substance or in effect, that registrations under this act were a necessary proceeding or step toward what you call conscription; whether that was pointed out by anybody?

98 [THE WITNESS: I do not quite understand just what you mean by "necessary proceeding."

THE COURT: whether anybody pointed out, before, under the act, the Government would call upon those of the age in question to serve in some capacity, that the act required that the person should be registered so that the Government could have the list of those persons within the so-called draft age?

THE WITNESS: I think -- yes, I believe they recognized the fact the Government would want their names, a list of the names of the young men.

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THE COURT: You think it was clearly stated at the meeting?

THE WITNESS: I would not say it was clearly stated; I think they understood, simply understood, and that was the understanding though it was not necessarily clearly stated.

THE COURT: You think it was clear to each of them at that meeting?

THE WITNESS: I think it was clear that the Government felt it necessary to first obtain these names and addresses of men of military age before proceeding to enforce the draft act.

~~MR. CONTENT: May I ask one question?~~

BY MR. CONTENT:

Q Did any one young man present say he would not register himself?

A There were various views expressed; I certainly do not remember any one young man who so stated.

Q I do not mean the name; did any one state he would not register?

A Yes, I believe there may have been a number of people there.

Q I am not asking you his name or to incriminate anyone; I want to know whether that view was expressed?

A I think that view was expressed.

~~MR. CONTENT: That is all.~~

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REDIRECT EXAMINATION BY MISS GOLDMAN:

Q May I ask whether you have any knowledge of Mr. Weinberger being the counsel-in-chief of the American Legal Defense Society?

A Yes, Mr. Weinberger is counsel for the American Legal Defense Society.

Q Having been connected with the Emergency peace Society, do you know, or do you not, that Mr. Harry Weinberger acted merely in his legal capacity when he was called upon?

A Yes. I should say that he acted in a legal capacity in the sense of expressing a legal opinion when called upon.

Q Then, as I was not at the meeting on the 23rd, I could not ask you as to his interpretation, but so far as you know in connection with the peace Society, is it or is ^{it} not true, that Mr. Harry Weinberger acted as the lawyer for the American Legal Defense Society?

A Yes, that is true.

~~Q Do you or do you not know that Governor Whitman is an honorary member of that society?~~

~~A I knew that --~~

~~MR. CONTENT: What has that got to do with this.~~

~~He is an honorary member of so much he cannot remember it all.~~

~~THE COURT: It is utterly immaterial. We are not having a trial of the American Legal Defense Society.~~

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Q Then may I ask whether Mr. Harry Weinberger gave legal aspects of the draft and conscription on the night you were there?

A He did.

BY MR. BERKMAN:

Q Do you remember Mr. Harry Weinberger stating that refusal to register is punishable by one year and fine, I believe?

MR. CONTENT: By not more than one year and one day.

One day to one year.

THE WITNESS: One day to one year.

Q Do you remember that somebody expressed the opinion that they would not register, and do you remember whether any reason was expressed by the young men that they would register?

A Yes, there were a number of young men there who repeatedly said they expected to register, and to register as conscientious objectors to the war.

Q And didn't we discuss at that meeting the question of conscientious objection in connection with the draft law?

A Yes, I believe there was such discussion of that.

Q And do you remember it being mentioned that the term is new in this country, and that we want to present it to the people, "Conscientious Objector"?

A Yes.

BY MR. CONTENT:

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Q In other words, some said they would register, and some said they would not; there was a divergence of opinion, is that correct?

A Yes.

(Recess until 3:05 P.M.)

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A f t e r n o o n S e s s i o n .

(3:05 o'clock P.M.)

M I N N A L E D E R M A N , a witness called on behalf
of the defendants, being first duly sworn, testified as
follows:

DIRECT EXAMINATION BY MR. BERKMAN:

Q Miss Lederman, what is your occupation?

A I have none now. I have just graduated from college.

Q What college?

A Barnard.

Q Are you a native of this country?

A Yes.

Q Did you attend a meeting in the Harlem River Casino
on May 18?

A Yes.

Q Were you near enough to the platform to hear Miss
Goldman's speech?

A I was about the eighth or tenth box from the platform,
during Miss Goldman's speech.

Q Did you ever hear Miss Goldman speak before?

A No, I had never seen Miss Goldman before.

Q You had never seen Miss Goldman before?

A No.

Q You heard Miss Goldman speak at that meeting?

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A Yes.

Q Did you see her on the platform before she spoke?

A No, I did not. I was watching for Miss Goldman to come, because I had never seen her; and I kept asking people if that and this person were she, and they said, No, and just as she came forward to speak, someone identified her for me.

Q You heard the whole speech of Miss Goldman?

A Yes.

Q Very clearly?

A Yes.

Q Did Miss Goldman during her speech say or read a sentence like this: "We believe in violence and we will use violence"?

A No, sir.

Q You are positive?

A Positive.

Q Did she say, or did you hear her say anything which might be construed in that sense?

A No.

Q Did you hear Miss Goldman at that meeting advise or urge people not to register?

A No, I did not.

Q Did you hear Mr. Berkman's speech?

A I could not hear his speech at all, because of the noise, behind my box becoming louder during Mr. Berkman's

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speech that during Miss Goldman's.

Q There was a noise behind the box?

A Yes.

Q During my speech?

A Yes.

~~MR. BERKMAN: That is all.~~

CROSS EXAMINATION BY MR. CONTENT:

Q You are a member of the Collegiate Anti-Militaristic League?

A I am.

Q Is that the same league to which Mr. Phillips and Mr. Cattell belong?

A No, but I was a member of that league. Mr. Cattell was not a member, and I don't know whether Mr. Phillips was.

Q You are a graduate of Barnard College?

A Yes.

Q You heard Miss Goldman's speech rather distinctly that evening?

A Yes.

Q She is a good speaker, is she, in your opinion?

A Yes, very.

Q A very clear speaker?

A Yes.

Q Where was your box situated with reference to the point where Miss Goldman was standing during her address?

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A Well, my box was either the eighth or the tenth on the left hand side of Miss Goldman.

Q And you could hear her pretty well from there?

A Yes.

Q And at the time Mr. Berkman spoke the noise was such that you could not hear, is that correct?

A I could hear him, part of his speech, but not very well.

Q Who spoke first?

A Miss Goldman spoke first. The noise became increasingly louder as the meeting progressed.

Q And you are quite positive Miss Goldman said, "We believe in violence and we will use violence"?

THE COURT: That she did not.

MR. BERKMAN: That she did not.

A Quite positive that she did not say so.

Q Now, do you remember anything you did hear?

A I remember particularly she approached the audience not to let itself become disturbed by the soldiers who were trying to create a racket.

Q In what part of her speech did she make that remark?

A Several times.

Q Do you remember anything else she said during this speech?

A I remember she discussed this conscription, said that the matter of conscription had come so easily in this country

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and taken a long time to come in England, and not at all in Canada.

Q Anything else?

A I don't remember anything else.

Q Did you hear her mention the word registration?

A I don't remember anything about registration.

Q You didn't -- you don't remember that at all?

A No.

THE COURT: Or the word "register".

Q Or "register"?

A No.

THE COURT: Do you say you don't, or that you don't remember.

THE WITNESS: I don't remember that.

THE COURT: You don't remember one way or the other, is that it?

THE WITNESS: That is it.

Q Wouldn't you be apt to remember if she made some remarks about registration?

A I was not so much interested in her remarks on registration. I was much more interested in her remarks on conscription.

~~Q Don't you know that registration is the first step.~~

~~MR. BERKMAN: I object to the opinion of the witness, whether registration or conscription, is immaterial.~~

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~~MR. CONTENT: I have not finished the question yet.~~

~~Q Don't you know registration is the first step provided for by the Selective Service Act of May 18, 1917?~~

~~MR. BERKMAN: Objection.~~

~~THE COURT: I sustain it on the ground that the witness's opinion or knowledge in that regard is immaterial.~~

~~MR. CONTENT: All right.~~ X

Q You don't remember that she mentioned the word "register" or "registration", in any part of her speech?

A I do not say she did not, but I don't remember.

Q You don't remember her using the word "violence" at any time?

A No, sir. I am sure she did not use the word "violence".

Q Did she say anything about the Russian Revolution?

A She spoke about Russia.

Q What did she say about Russia?

A She said that Russia had gained a freedom that might prove greater than any freedom that we have in this country.

Q Is that all she said?

A Well, that is the gist of her remarks on the subject.

Q Did she mention any celebrated Russian?

A What is the question?

Q Did she mention any celebrated Russian, that you remember?

A She mentioned ^B Freshkowskaya.

164 Q Did she mention any American statesmen in her speech?

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A I don't remember. It don't seem to me that she did.

Q It don't seem to you that she did?

A No.

Q Do you remember whether she mentioned Senator LaFollette in her speech?

A I don't remember any mention of Senator LaFollette.

Q Do you know whether she mentioned Senator Stone in her speech?

A No, sir, I do not.

Q Do you know whether she made any references to Germany in her speech?

A I don't remember any.

Q Do you recollect?

A No.

~~MR. BERKMAN: I object. One moment. It seems to me the question is not fair, since it would be impossible for anyone to remember everything in a speech, except the gist of it.~~

~~THE COURT: I told you, or warned you before, that that is merely argument. The witness is not here to be tested as to her recollection; the examination is entirely correct.~~

Q Do you remember whether she said this "They have a Kaiser, the kind of a Kaiser they want and are going to stand for"?

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A I don't remember any such statement. I mean if there had been such a statement it would have made an impression on me.

Q Did you hear her mention the name of Wendell Phillips, in her speech?

A She did mention Phillips, I think.

Q Did she mention any other writers?

A I am not sure, but I think she mentioned Emerson.

Q Did she say or do you recall whether she said this: "How many people are going to refuse to conscript, and I say there are enough"? Was anything like that said to your recollection?

A No.

Q Did she say anything about a subsequent demonstration that was being planned?

A She spoke of other mass meetings she hoped to have held throughout the City.

~~MR. CONTENT: That is all — just another question.~~

Q Have you been at any other meeting that she spoke at?

A No, that was the only time I ever saw or heard Miss Goldman.

Q You heard her distinctly, as you said before?

A Yes.

BY THE COURT:

Q Is this the first day you have been in court during

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this trial?

A Yes.

Q You say you heard Miss Goldman talk distinctly?

A Yes.

Q And her enunciation was clear?

A Yes.

Q Did you have any difficulty at the time in telling what she said?

A No, she kept the audience very quiet.

Q And during her speech the audience was quiet?

A Well, whenever the noises -- there were quite a few noises around the boxes -- appeared to get louder, Miss Goldman would silence it; and she refused to have the crowd applaud, several parts in her speech, because it made so much interruption, and so much noise, that she could not get through her speech in time.

Q Did she speak slowly, or quickly, or partly sometimes slow and sometimes quick, or how?

A I think she spoke rather rapidly.

Q Did she speak slowly at times?

A I don't remember. I remember only the intentions I came with to the place.

Q You don't remember how she spoke?

A Well, I don't remember if she spoke slowly at times. I was under the general impression that she spoke rapidly.

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Q And throughout, you had no difficulty in understanding her?

A Not at all.

Q In the main, were her words simple words?

A Yes, very simple.

BY MR. CONTENT:

Q It was a mass meeting, and people of all kinds were there?

A Yes.

BY MR. BERKMAN:

Q Miss Lederman, if this woman had used the expression, "We believe in violence and will use it", would that have attracted your attention?

A Yes.

Q And you don't remember having heard such an expression?

A I do not.

Q Or anything similar?

A Or anything similar.

Q When the word, ^BGreshkowzhay~~sk~~ was mentioned by Miss Goldman, she also mentioned another name with it, a Russian name?

A Yes, she mentioned another name there, a Russian name, which I can't remember.

~~MR. BERKMAN: That is all.~~

~~MR. CONTENT: That is all.~~

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A L F R E D S E E L E N F R E U N D, called as a witness
on behalf of the defendants, being first duly sworn,
testified as follows:

DIRECT EXAMINATION BY MR. BERKMAN:

Q What is your business or profession?

A Attorney at law.

~~Q Attorney at law?~~

~~A Yes.~~

Q And are you a native of this country?

A I am.

Q Were you on May 18th at the Harlem River Casino?

A I was.

Q Where were you sitting?

A I was sitting in one of the boxes on the left side
right above the platform.

Q And were you on the right or the left side of the plat-
form?

A I was on the left side, that is, with the speaker
facing me I was on the left side.

Q Do you remember Miss Goldman's speaking at that meet-
ing?

A I do.

Q Did you ever hear her speak before?

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A I never did.

Q Had you ever been to a similar meeting before?

A No.

Q You were interested to hear Miss Goldman to speak, is that it?

A No, no, I had an appointment with Mr. Weinberger, who is a personal friend of mine, and he told me that he would speak there that night, and I went up there to meet him.

Q You came to hear Mr. Weinberger?

A Yes.

Q And did you hear Mr. Weinberger?

A Yes, I heard all of the speakers.

Q Was there any other purpose in your coming there?

A Why, I told Mr. Weinberger I was going up there to see how violent his anarchists could be.

Q To see how violent his anarchists could be?

A Yes.

Q Did you hear Miss Goldman's speech?

A I did.

Q Did she, during her speech say "We believe in violence and we will use it"?

A No.

Q If she had made a statement like that, it would have attracted your attention?

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A It would, yes.

Q Did she anything that might be interpreted as meaning that?

A No.

Q You were not in sympathy with the speaker?

A No, I am not an anarchist.

Q You are not in sympathy with anarchists?

A No.

~~MR. CONTENT: I object to that.~~

Q Did you hear Miss Goldman advise or urge her audience not to register?

A No.

Q Did you hear Mr. Berkman there?

A I did.

Q First, to finish with Miss Goldman's speech — is Miss Goldman a rapid speaker?

A Well, she was rapid that night. That is the first time I ever heard her.

Q That is the first time you heard her and she was rapid that night?

A Yes, rather rapid.

Q She was clear at the same time?

A Very clear.

Q She was both rapid and clear?

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A Rapid and clear.

Q Did you hear Mr. Berkman speak?

A I did.

Q Did you hear everything Mr. Berkman said?

A I did.

Q Did you hear Mr. Berkman advise or urge people not to register?

A No.

~~MR. CONSENT: There is no testimony to that effect.~~

~~MR. BERKMAN: Well, I am merely asking him. We usually say about the same thing.~~

Q Did you hear anyone at that meeting on the platform advise or urge people not to register?

A No.

~~MR. BERKMAN: That is all.~~

CROSS EXAMINATION BY MR. CONTENT:

Q Was anything said about registration?

A Why, I don't think there was, Mr. Content.

Q Now, Mr. Seelenfreund, you are a member of the bar, you know whether that is of importance?

A Well, I paid particular attention to see how far she would go in abusing the law, and I can say I am quite sure nothing regarding registration was said there.

Q You don't recollect the use of the word "register" or

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"registration"?

A No, I do not.

Q And you were there during the entire meeting?

A Yee.

Q Well, did the people at that meeting take any vote on registration?

~~A Did they take a vote on registration?~~

~~Q Yes?~~

A No.

Q Or did they make any pledges or anything of that sort?

A No.

Q There was no viva voce vote, or anything like that?

A No.

Q And your best recollection is that words "Registration" or "register" were not mentioned at all?

A That is my best recollection.

Q Do you remember anything else that was said during Miss Goldman's speech?

A Yes, I heard her say, I believe, that there was more democracy in Russia today than there was in this country.

Q Did she say anything about the Kaiser, during her speech -- that is, the German Kaiser?

A She mentioned the name "Kaiser", except I don't exactly recall in what connection she used it. I think she

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said the Kaiser was not paying for that meeting, and that they would be accused of it.

Q Did you hear the defendant Goldman state that the Germans were not disappointed in the Kaiser, they have a Kaiser, the kind of a Kaiser they want, and are going to stand for? Did you hear her -- do you know whether she said that?

A I recall something said in regard to the Kaiser.

Q Do you remember whether she said, "Democracy is the laughing stock before all Europe."

A No, she did not say it in that way.

Q Do you remember whether she said, "Congress is in the hands of those who pull the strings, it is a jumping jack"?

A She may have said words to that effect. I believe she --

Q (Interposing). Do you recall whether she mentioned the names of any Congressmen or Senators during that speech?

A No, I do not.

Q Would you recollect it, if she mentioned the name of Senator La Follette during her speech?

A The name La Follette was mentioned. I think Mr. Weinberger mentioned that in talking.

Q No, I am talking about Miss Goldman's speech. Unfortunately I did not get a copy of Mr. Weinberger's?

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A I do not think Miss Goldman mentioned that name.

BY THE COURT:

Q Did Miss Goldman mention the name of any of the members of Congress -- of the House of Representatives or the Senate?

A Well, I would not say she mentioned them. I don't recall that she did. I know she mentioned some Russian names.

BY MR. CONTENT:

Q Did she say this: "I am not afraid of prison. I have been there before."

A I think she said something to that effect.

104 Q Did she say: "You cannot stop the revolutionary spirit"?

A I think so, yes.

Q Are you associated with Mr. Weinberger?

A No.

REDIRECT EXAMINATION BY MR. BERKMAN:

Q Do you remember the connection in which Miss Goldman said that "I am not afraid of prison and I will say what I think"? Do you know in what connection she said that?

A I only recall it was part of her speech. I paid more particular attention to find out whether she was going to say anything in violation of the law, or not. I went up to see

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how far she would go.

Q And do you remember her saying that she refused to advise people not to register, not because she is not afraid of jail, but because she did not believe in advising people that way?

A I remember she did say that, yes.

BY MR. CONTENT:

Q Do you recall that distinctly?

A Well, not in those words, but to that effect, that she would not advise people not to register.

Q Well, I thought you told us on direct examination very clearly, in response to several questions, put by myself and the Court, that she never mentioned the word "register"?

A Well, I told you that. Now, that Mr. Berkman recalls it to my mind --

MR. BERKMAN: Does it refresh your memory?

BY THE COURT:

Q Is it your testimony that she positively stated --

A (Interposing). No.

Q How do you know what I am going to ask you? Is it your testimony that she positively stated she would not advise people ^{not} to register?

A No, she stated in effect --

THE COURT: Don't give it in effect.

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THE WITNESS: That is all I can give you.

Q You can give it either in her language or in substance.

A She stated then she was not there to give advise or to tell people what to do; that it was up to them to decide for themselves; and I believe that is what I meant when I said she did not advise them to register or not to register.

Q Was the word "register" or "registration" used throughout the speech, that word -- that is to say, either of those words "register" or "registration", in any connection?

A To my best recollection -- my best recollection is now it was not used.

BY MRQ CONTENT:

Q Then you answered Mr. Berkman improperly, didn't you?

A Well, I answered to the best of my ability. Mr. Berkman did not ask me whether the word "registration" was used.

BY THE COURT:

Q Well, do you say it was not used, or that that is simply your recollection?

A It is my recollection the word was not used, but I will not say it was not used.

Q Is it your clear recollection, or --

A (Interposing). It is -- to my best recollection it was not used, the word "registration," it self.

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Q Am I right in understanding that you went there to keep an appointment with Mr. Weinberger?

A I did.

Q On some personal matter?

A Yes, on some personal matter.

Q And I imagine you remained out of curiosity?

A Well, I went there out of curiosity, yes.

Q Well, did you go for the purpose of seeing Mr. Weinberger, or for the purpose of attending the meeting?

A Why, I had an appointment with Mr. Weinberger, and he told me he would be there, and then I went as a matter of curiosity to see — I told him before I went, I said to him, "I am going to see how violent your anarchists can be," because I knew he represented Miss Goldman and Mr. Berkman and some others.

BY MR. CONTENT:

Q You were with him during the trial of Kramer and Becker?

A I was.

BY THE COURT:

Q How do you know you knew he represented them?

A I know him for fifteen years. We belong to the same clubs, and we were brought up in the same neighborhood, and I take a personal interest in Mr. Weinberger. He belongs in

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my section.

Q You did not understand my question. You say he represented them -- how do you know that?

A Why, he told me, and I read it in the newspapers.

Q You mean represented them professionally?

A No, as an attorney.

Q Well, I say, didn't you know -- you are an attorney, when I say professionally, that means as an attorney?

A Yes, professionally.

Q You mean he represented them professionally?

A Yes.

Q Well, in what way?

A Well, I knew that he was the attorney for the American Legal Defense League. I knew when it was organized, and I spoke to him about some things he did and was going to do. I looked over some articles he wrote before he signed them; and we have been working together for a good many years, and we have never been on the same side of the fence; Mr. Weinberger has always been a Republican while I have been a Democrat.

Q Well, in this matter, what did you mean? You mean he was the lawyer for the defendants?

A He was the lawyer representing them in any proceedings that came on before the courts.

Q I see. Had he represented them professionally, to your knowledge -- don't answer anything you don't know.

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A Represented Miss Goldman, you mean?

Q Yes.

A Yes.

Q As a lawyer?

A Yes.

Q In a proceeding in some court?

A Yes, Special Sessions.

Q At that time he represented her as her attorney, is that right?

A Yes.

Q Do you know whether he, Weinberger, passed on any of the literature?

A Any of their literature?

Q Yes.

A I don't think he ever did it.

Q I asked you, did you know?

A I don't know, no.

Q Were you present at any time -- I do not ask the subject of the conference -- were you present at any time when he had any talk with either of the defendants?

A No, the first time --

Q You can say yes or no.

A No.

Q You were never present?

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A Never present.

Q Are you associated with him professionally?

A I am not.

Q In any matter?

A No matter at all.

Q When were you first asked as to your recollection of what took place at the Harlem River Casino?

A Why, I was never asked. I never spoke to Miss Goldman. I was subpoenaed the day before yesterday for this trial.

Q Did you talk about that meeting to anyone?

A To anyone?

Q Yes.

A Why, no.

Q Did you recall speaking of it to Mr. Weinberger?

A I did, right after the meeting, as we went home.

Q Did you speak of it since?

A I don't think so. I haven't had a chance to speak to him since.

Q No, just say yes or no.

A No.

Q So, since the night of the meeting, you never spoke to Mr. Weinberger about it?

A No.

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X Q How often have you seen him since then?

A Oh, very often.

Q When did you see him last?

A Saw him this morning.

Q Where?

A At his office.

Q Did he send for you or did you go there?

A Why, I got a subpoena, and I came down to his office, and I showed it -- and he was very busy with some people and I ran over to the court. It was about ten thirty at that time.

Q You got a subpoena?

A Yes.

Q Who gave you the subpoena?

A It was mailed to me.

Q Was there any mark on the envelope indicating from whence it was mailed?

A Why, it was a special delivery, reached the house, I believe, at ^{about} eleven or twelve o'clock that night, the day before yesterday.

Q You don't understand my question. Was there any subscription on the envelope to show from where it was mailed?

A I couldn't say positively --

MR. CONTENT: Who the sender was?

THE WITNESS: Yes.

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Q Yes, who the sender was?

A Who the sender was? Mr. Weinberger.

Q You mean to say the envelope had his name and law office on it?

A Yes.

Q Have you got that with you?

A No, I have not.

Q See if I understand you correctly? You received a subpoena last night --

A (Interposing). No, the night before last. I did not receive --

Q (Interposing). Well, a subpoena came by special delivery to you in an envelope with Mr. Weinberger's name and address on it?

A Yes.

Q And after that, and until this morning, did you see him?

A I saw him this morning for a fraction of a second.

Q Excepting this morning?

A No, sir.

~~THE COURT: That is all.~~

BY MR. CONTENT:

Q Let me summarize this one thing: You stated on your cross examination in response to questions both by his Honor

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and myself that the words "register" or "registration" were not used; then, Mr. Berkman asked you some question on re-direct examination in which the word "registration" was used; and upon a recross I asked you about that, and you said Mr. Berkman refreshed your recollection; then upon further cross examination you said it was still your best recollection that the word had not been used. Is that correct?

A That is correct.

~~MR. CONTENT: All right.~~ X

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B O L T O N H A L L , a witness called on behalf of the
defendants, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MISS GOLDMAN:

Q What is your occupation, please?

A I am a land owner.

Q No, your profession?

A ~~I~~ am a lawyer, but not in active practice.

Q Mr. Hall, are you a native of the United States?

A No, I was born in Ireland.

Q How long have you been in America?

A About forty-seven years, forty-nine years, something
like that.

Q Mr. Hall, have you known me for any length of time
at all?

A Yes, perhaps for twenty or twenty-five years.

Q During this time did you have occasion to receive let-
ters from me?

A Yes, a number of times.

Q In what form were the letters, were they in my hand-
writing or --

A Most of the letters as far as I remember, always
were in handwriting.

Q Mr. Hall, in receiving your letters, did you have any
difficulty at all in reading them?

A Some letters, short ones, were quite legible. The

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long ones I always turned over to my stenographer to make a copy of because I found it was hard to make them out.

Q You have just said you have known me for a number of years?

A Yes.

Q We had many discussions during that time?

A Very many.

Q On different subjects?

A Very great variety of topics.

Q We did not always agree?

A I think we did not generally agree.

Q Have you, in all the different discussions that you had with me, on different topics, -- did you ever hear me say, "We believe in violence and we will use violence"?

A No, I never did. I never heard anything to that effect.

Q Did you ever see anything in my writing to that effect?

A No, I never did. I always gathered that you believed in education, and were trying to educate the people, and that only by the education of the people could we attain any real liberty. In that we agreed.

~~Q In knowing me for many years, may I ask you whether at any time I was engaged in conspiratory work?~~

~~MR. CONTENT: Objected to.~~

~~THE COURT: Sustained.~~

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~~X MISS GOLDMAN: Exception. X~~

Q Do you know whether, during the time of our acquaintance I ever refused to openly stand for what I believed?

A No, I think you never did so refuse.

Q Did you ever find me denying anything I stood for?

A No, I never have heard you denying anything you had previously avowed.

~~X MISS GOLDMAN: I think that is all.~~

~~THE COURT: Any questions, Mr. Berkman?~~

~~MR. BERKMAN: No. X~~

CROSS EXAMINATION BY MR. CONTENT:

Q Did you know Miss Goldman in 1893?

A I think so, yes.

Q Do you know that in 1893, in a public speech, Miss Goldman urged people --

MISS GOLDMAN: I object.

MR. CONTENT: I have not finished my question.

MISS GOLDMAN: I object. Any public speeches in 1893 have no connection with the charge in this case.

MR. CONTENT: He has been testifying that he never attempted violence.

BY THE COURT:

Q Did you ever hear a speech of Miss Goldman in 1893?

A I can't remember. I am not very apt at dates. I can't remember whether I heard such a speech at that time or not.

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BY MR. CONTENT:

Q Did you ever hear a speech in which Miss Goldman urged the people to take what they wanted by force?

MISS GOLDMAN: Objection.

A No, I did not.

MISS GOLDMAN: Objection withdrawn.

~~MR. CONTENT: That is all.~~

REDIRECT EXAMINATION BY MISS GOLDMAN:

Q I have not expected you, Mr. Hall, to remember all the speeches I made in twenty-four years, so I did not ask you about the speeches of that time, but you have heard me speak during a number of years in recent years, have you not?

A Yes, more often than in earlier years.

Q Have you at any time heard me urge people to take things by force?

A No, I never have.

Q Have you in any private discussion on different matters heard me express that I would tell people to take things by force?

A No, I never have.

~~X MISS GOLDMAN: May I be instructed, since the question of twenty-five years ago was mentioned, whether I can bring testimony in evidence, or ask Mr. Hall something about it -- I would like to be instructed.~~

~~THE COURT: You may ask him, and you may have the~~ X

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~~privilege of adducing any evidence you desire on it.~~

Q Of course, you know that because of some address I made many years ago, I was given a vacation in jail?

A I do, yes.

Q You say you have not heard that address?

A No.

Q You have not?

A No.

Q I did not expect you had. Have you any idea for what I was held -- I mean after that expression.

A I think it was on some general charge of the police, arising from inciting to violence, or something of that kind.

Q Have you any idea whether the violence took place?

A No, no violence took place, so far as my remembrance is concerned. I do not remember about 1893, but, no violence as far as I know has ever taken place owing to any expression of yours, or that can be traced, that I can find in an honest opinion expressed by yourself.

Q And you have read pretty much everything I have written?

A Not everything, perhaps, but nearly everything, yes.

Q Then, you don't know whether at that time I was held for quoting Cardinal Manning?

A No, I don't remember that.

BY MR. CONTENT:

Q You were not present at this speech?

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A No, sir.

Q Which caused Miss Goldman's vacation, were you?

A No, I think not.

105 Q Then you don't know whether the violence existed or not, do you?

A Yes, because I should have heard about violence if it had, I think.

THE COURT: Well, the point is, you have no personal knowledge one way or the other.

✓ THE WITNESS: Except I think, being intimately acquainted with Miss Goldman, I think I would have known of it if any violence had existed, or ensued.

THE COURT: That is a deduction. The point is that you don't know anything about the speech, one way or the other, or what followed of your own knowledge. I think you told us you were a lawyer by vocation?

THE WITNESS: Yes.

BY THE COURT:

Q So that you can gather what the question means?

A Yes, I do. That is true.

Q Then I have put it correctly, have I?

A I think so.

BY MR. CONTENT:

Q Did you hear from Miss Goldman later that she was convicted upon an indictment charging her with unlawful assembly

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and inciting to riot?

A I don't remember whether I heard that from her or not.

~~Q Did you hear it, as a matter of fact?~~

~~THE COURT: I will exclude that.~~

~~Q Did you hear it from her?~~

~~A I don't remember hearing it from her.~~

~~MR. CONTENT: All right.~~

~~THE COURT: Any other information is hearsay, and~~

~~is excluded.~~

BY THE COURT:

Q Are you a subscriber to Mother Earth?

A Yes.

Q Are you a subscriber to The Blast?

A No.

Q How long have you been a reader of Mother Earth?

A Since it was published.

Q What is your recollection as to how long that is?

A I think it must be about ten years.

Q And have you engaged in some matters of public discussion yourself?

A Yes, many times I have engaged in matters of public discussion.

Q Without going into details, what generally has been the character of your work in that regard?

A The advocacy of taxation of land values, the Henry

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George system of taxation condition generally which tended toward liberty, more especially with regard to free speech.

BY MISS GOLDMAN:

Q One question I forgot to ask you. You were always interested in the question of free speech?

A Always.

Q Are you a member of the free speech league?

A I am a member of the free speech league.

Q And have you had occasion to lead in the fight for free speech?

A Yes, I have.

Q Have you had occasion to lead in the fight for free speech in my behalf?

A Yes, I have.

Q Mr. Hall, you have written a number of books?

A A large number -- so many I am ashamed to mention them.

BY THE COURT:

Q Just for a little information. I don't know that it is very germane, but I have never heard of the National Free Speech League. Can you tell us what it is?

A A small number of persons who believe that there should be no restriction upon speech; that the person should be allowed to say what they choose, being, however, responsible for the consequences of whatever they say, be held to account only to the consequences of what they say when they are in--

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terrogated. Free speech is the best safety valve for discontent and anything else that there is, and we are not afraid to hear what anybody else has to say, however wrong-minded we think he is.

Q Then, the principle of that organization to which you refer, and information in regard to which was elicited by Miss Goldman's question, is that any person may say what he pleases, the responsibility being only as it happens as a result of saying it -- is that it?

A That is it.

Q That is a doctrine involving saying what one pleases, whether the law countenances it or not?

A I think it does. We think that the statute guarantees the right of free speech, and that it does not mean free speech limited, it means free speech.

Q If I gather it correctly, your belief, in this organization to which reference has been made, is one which permits any speech whatever, whether such speech is a contrary to an existing statute or not?

A Well, we think that ought to be allowed. Whether it is judicious or not, that is another point.

Q But, the defense of free speech, to which you have just referred, includes, as I understand you, the right to say anything you please, irrespective of what the law at that particular time provides.

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A That I think would be real free speech.

Q Well, I mean to state the doctrine of this association to which you belong, and which was referred to by Miss Goldman as yours?

A Well, I would not say the association lays down any doctrine. They simply stand for free speech.

Q Then, have I correctly stated your definition?

A My definition?

Q Yes.

A Yes, I think so.

~~BY MISS GOLDMAN:~~

~~Q Have you any knowledge of Mr. Brand Whitlock, the American Ambassador to Belgium, being a member of the National Free Speech League?~~

~~MR. CONTENT: That has nothing to do with it.~~

~~A Yes, he is a member.~~

~~MR. CONTENT: I object. Suppose he is a member.~~

~~THE COURT: That don't mean a particle to us, whether he is a member or not. I presume there are quite a number of members of everything, good, bad or indifferent.~~

~~MISS GOLDMAN: I think that will be all.~~

~~BY MR. CONTENT:~~

~~Q Is Mr. Leonard D. Abbott an officer of that league?~~

~~A No.~~ Y

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~~THE COURT: Anything more of Mr. Hall?~~

~~MR. BERKMAN: No.~~

~~MARY ELEANOR FITZGERALD, recalled.~~

~~THE COURT: Now, if you want some other witness disposed of, she is here right along, and it would be better to dispose of the other witnesses first.~~

~~MR. BERKMAN: All right.~~

JOHN F. SKELLY, a witness called on behalf of the defendants, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BERKMAN:

Q Your name is John F. Skelly?

A Yes.

Q What position do you hold in the municipal service commission?

A Assistant secretary.

Q Mr. Skelly, have you the record of William H. Randolph?

~~MR. CONTENT: Just answer whether you have it, yes or no.~~

A Yes.

~~Q Will you please look at that record and tell us whether Mr. Randolph qualified as a stenographer in the police courts?~~

~~A He did.~~

~~MR. CONTENT: Objected to. There is no testimony.~~

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~~he qualified in the police courts. They have got special stenographers in the Magistrates' Courts, as you know.~~

~~MR. BERKMAN: Police Department, of course, I meant.~~

~~THE COURT: Randolph testified he passed the examination on three separate times as stenographer.~~

~~MR. CONTENT: Civil service.~~

~~THE COURT: The civil service examination, not for the Police Department, but three times for the municipal civil service examination, and Mr. Skelly can tell us what he finds in the records.~~

~~Q. Will you please give us his record in his examination. X~~

~~THE COURT: Now, I am very familiar with these things, and I think I can ascertain that for you.~~

~~MR. BERKMAN: Yes, certainly.~~

~~THE COURT: And you can see these papers, of course.~~

BY THE COURT:

Q Now, you produce here a paper called "Application 77,746, index number 748, Examination 17"; then, "Notification February 5, 1907"?

A That's right.

Q Now that application was received when?

A On January 28th, 1:10 P.M., in the year 1907.

Q Now that application is signed William H. Randolph, 923 Brook avenue, Bronx?

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A Yes.

Q In the body of the application what age is stated for the applicant?

A Twenty years of age.

Q Now, what was the nature -- this is from the Municipal Civil Service Commission files?

A Yes.

Q What was the nature of the examination?

A For stenographer and typewriter, grade 1 and grade 2.

Q Which is the higher grade?

A Grade 2.

Q Now, what mark or percentage did Randolph obtain?

A Grade 1, 88.20%. On the grade 2, 88.20%.

BY MR. CONTENT:

Q May I ask what rating was given him May 9, 1907? I don't mean the date of the application. You gave us the date of the application before.

A Well, that was at the time of the examination, the list was promulgated. Of course, I don't know what that date is unless I look it up in the record, look up the records for that.

BY THE COURT:

Q Does that mean that he qualified?

A Yes.

Q That means he successfully passed the examination?

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A 70 per cent is the required amount, and he received 88.20. Seventy would pass him.

THE COURT: Yes. Now, let the defendants see this paper.

Q Now, what was the next examination of Randolph?

A Stenographer and typewriter, second and third grade. The list was established January 11, 1911. He passed the second grade examination with a percentage of 82.90. He was certified to the Board of Education on September 23, 1913, but failed to report -- that is, when he was certified, and received a certificate, he failed to report to the Board of Education, and consequently he was not appointed.

Q That is, he failed to go up there to get the place?

A Yes.

Q And therefore was not appointed?

A yes.

Q But the result of that, in turn, is that he loses his place on the list?

A Yes.

Q Now, when was this application dated, Mr. Skelly?

A September 27, 1910, at 12:32 P.M. That was the date it was received, and the hour.

Q And how old does he say he was then?

A Twenty-two years of age.

Q And in giving his experience in other things, what,

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if anything, does he say as to employment in the Navy Yard?

A Four years, from 1907 to 1911, as stenographer and typewriter, appointed by the Secretary of the Navy, Navy Department, Washington, D. C., for duty in the Commandant's Office, Navy Yard, New York.

THE COURT: Now, we will pass that to the defendants.

Q Now, did he apply again?

A Yes.

Q He filed an application again for stenographer and typewriter?

A Second and third grade. The application was presented and received on March 26th, 1913, at --

Q That looks like 2 P.M.

A Two P.M. At that time he gave his age as 25 years of age, with experience --

Q Among other things, some experience in the Navy Department, -- I think it is five years?

A Five years.

Q Did he pass that examination?

A Yes, he passed that examination, second grade 81.80%.

Q And what was the date of the promulgation of the list?

A The date of the promulgation of the list was February 18, 1914.

Q Now, at different times since 1907, have the examinations varied?

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A Well, they did some, your Honor. That is to say, they are improving the conditions of the examinations, and make them so that they will fit the conditions as they arise each year.

Q In the municipal service?

A In the municipal service. For instance, a person who passed the examination five years ago, or ~~s~~ years ago, would not pass the examination today unless he was more qualified with knowledge of the examination.

Q Well, in other words, is it fair to say, from your experience in the Municipal Service Commission, that it is constantly raising the standard of qualification?

A They are.

Q And as time goes on, more severe tests are applied to the applicants?

A Yes.

Q Is that a fair statement?

A That is a fair statement.

M THE COURT: Now, Mr. Skelly has also brought Mr. Randolph's application for patrolman, and his per cent, but that has nothing to do with the stenography.

MR. CONTENT: Would your Honor introduce it, just to show when he was appointed patrolman.

THE COURT: Yes.

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Q Well, Mr. Skelly, you produce application No.

34,304, for patrolman. Is that correct?

A Yes.

Q And the index number is 40,677, and what is the date of that application?

A This application was received July 12, 1910, at 12:49 P.M.

Q And what was the percentage that Mr. Randolph attained in that examination?

A 88.48.

Q And the passing mark for that is 70, too?

A Seventy per cent. There is also a physical requirement necessary in the patrolman's examination.

Q In addition to the mental examination, and qualifications in that regard, of course the officers have to pass a physical examination?

A A physical examination.

Q But this mark is the same for his mental qualification?

A Seventy per cent is the percentage mark, and he received a percentage of 88.48, and he was appointed to the Police Department on November 8th, 1911, and up to the present time is still in the employ of the Police Department, as far as our records show.

BY MR. CONTENT:

Q May I ask, have you your records there? Was the index

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number on the first examination 748 -- have you got that first record? Just give me the first examination, about which you have testified.

A The index number was 748.

Q Now, I show you a letter addressed to William Randolph, 923 Brook avenue, and ask you was this the regular notification of the Municipal Civil Service Commission?

A That is our form blank.

Q That form is dated May 9, 1907?

A Yes.

Q That would be the date of the notification that the applicant had passed; is that correct?

A Yes.

MR. CONTENT: I don't offer this letter in evidence.

Q Just look at this notification, which I produce, and see what the percentage is -- will you read it into the record -- 88.21?

A 88.21.

Q That is right?

A That is right.

MR. CONTENT: This is the notification of May 9, 1907.

Q Now, I show you another one, dated January 25, 1911, and ask for the index number of the second examination about which you testified -- is the number 1446?

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A Yes, it is.

Q And is the grade that you have there?

A 82.90.

Q That shows he passed with that rating?

A Yes.

MR. CONTENT: And this notice is dated January 25, 1911.

Q Now, let me call your attention to this. You stated that in 1913 he was passed as a stenographer and notified to report, but he did not report?

A Yes.

Q Wouldn't your records be explained by a reference to the fact that he was appointed a patrolman prior to 1913?

A Well, we don't know.

Q Well, I mean by looking at your record now?

A Yes, we don't do that.

Q You don't at all?

A Yes — we have so many positions they are all different lists.

THE COURT: It so happens that before that time Mr. Randolph was then in the police department, and his failure to report is perfectly explainable in having a position in the police department.

MR. CONTENT: That is just what I wanted to bring out.

Q So that at that notification, in 1913, according to your

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records, he had been appointed a patrolman?

A Yes. May I explain? When a requisition is made upon the Civil Service Commission, by the Department, we certify the names to that Department. The Department in turn notifies the candidates to appear. If they do not appear within the period of five days, it is equivalent to their declining the offer. The Department then in turn notified the Civil Service Commission of the failure to report, of the man or the candidate, whoever he may be. We insert that in our records, so that if at any time any question should arise, we refer to our records, and know just exactly what was the cause of this man's declination, or why he was not certified.

Q Now, I understand, from your records, in 1913, when he was ordered to report by the Education Department, he had already been in the employ of the Police Department as a patrolman?

A He was.

Q Now, is your third examination index number 2424, the third record about which you testified?

A It is 2424, the index number.

Q And is this notification, February 19, 1914, correct, and he got a percentage of 81.80?

A 81.80 is correct.

Q And from that I understand, in regard to the point which is in the question Judge Mayer asked you, the examina-

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tion of 1914 should in the course of events, be stricter than that of 1907?

A Yes.

~~MR. CONTENT: That is all.~~

~~THE COURT: Are there any other questions.~~

BY MR. BERKMAN:

Q Mr. Skelley, if I understood you, of course right, the percentage in the first examination of Mr. Randolph was 88.20?

A 88.20 is right.

Q And the second was 82.90?

A Yes.

Q That is a falling down, that is a decrease in percentage, that percentage decreased?

THE COURT: He says the standard has been constantly increasing, and he repeats that now.

108 Q But, so far as these figures show, the percentage of Mr. Randolph decreased on the second examination.

MR. CONTENT: The figures speak for themselves.

81 is lower than 88. You can understand that.

MR. BERKMAN: I wanted to be sure about the figures.

THE COURT: The figures are perfectly clear.

Q And the figure for the final examination is still less,

81? A 81.80, you are right.

Q Mr. Skelley, you testified that Mr. Randolph took the

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examination as a third grade stenographer?

A Second and third grade.

Q What is his percentage of speed -- how many words a minute can he write?

A Of speed?

Q Yes, as a stenographer, -- how many words a minute did he write?

A Well, the examination and advertisements called for 120 to 130 words.

Q That is all, 130 the maximum?

A The maximum was 130. This is the advertisement; you may read yourself.

THE COURT: Yes, what date is that?

THE WITNESS: March 12, 1913.

Q Is it marked down there how many words Mr. Randolph wrote on his first examination?

MR. CONTENT: No, he has specified as to what the requirements of the examination were.

MR. BERKMAN: Then we will figure that out.

THE COURT: You can't very well.

THE WITNESS: All persons passing the examination will be rated as second grade stenographers and typewriters, all passing with a percentage of 81 will be rated as third-grade stenographers and typewriters, provided they also qualified on the 120 and 130 word tests.

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Q And 130 would have to be the maximum?

A Yes.

Q He would have to have 100 per cent to pass 130?

A No, they don't rate them that way, according to the number of words they write. There is a time limit, a speed limit, an accuracy limit.

MR. CONTENT: Is there a word requisite?

THE WITNESS: Yes, and then they are rated on what the we call weights in/examination.

THE COURT: Now, if you will permit me, I think I can make this clear. The examination of 1913, March 12, says, "Public notice is hereby given that applications will be received from Wednesday, March 12, 1913, to 4 P.M., March 20th, 1913, for the position of stenographer and typewriter, male and female, grades two and three" -- I will omit immaterial matters -- "the date of the examination will be fixed later. The several weights of the examination are as follows: Dictation 6, of which rapidity in taking shorthand notes will count two, and accuracy will count four; tabulation 3, and facility in deciphering notes; speed 1, in transmitting from plain copy to machine; spelling 1. 70 per cent will be required for the dictation test, and 70 per cent on all in the dictation test. Four ratings will be given, one of 100 words, one of 110 words, and 120 words per minute, and

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one of 130 words per minute, carrying the ratings respectively, of 70 per cent, 80, per cent, 90 per cent and 100 per cent on rapidity. In the rating carrying exactness, correctness of form, neatness, freedom from interlineations, alterations, etc., will all be considered. Time limits will be set in connection with each test."

Then it goes on with "they must furnish their own note books. All persons passing the examination will be rated as second grade stenographers and typewriters. All passing with a percentage of 85 will be rated as third grade stenographers and typewriters, provided they also qualify on the 120 and 130 word tests. Salary from \$600 to \$1650 per annum."

Now, in the other advertisements, in regard to the other examinations, they are the same general tenor, with however, different details in a great many, and different tests.

Now, will you let me ask this one question.

BY THE COURT:

Q Of course, I know you are not in an examination department; but are you able to tell us whether the examination, in part at least, is conducted under the supervision of an expert stenographer?

A Well, by an expert examiner, who takes the time and who has the time in his hands, and announces to the candidates

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the time that they will be given for that particular paper, that is on that particular paper, and then they count the words per minute, so that they take the dictation, and the moment that the time is up the clock stops, and the announcement is made to quit.

Q When all this is done, are the results of all that examined by a stenographer?

A No, by an examiner.

Q I don't mean that, is he a stenographer?

A No, sir.

Q Not necessarily?

A No, sir.

Q I see. So that the decide by the translation by the applicant of his stenographic notes into readable English?

A Yes.

THE COURT: Is there anything else you want?

MR. BERKMAN: Yes. There are complicated figures there that we would like the witness to tell us, as one familiar with these examinations. Please tell me what would be the maximum speed of words per minute at which an applicant could write, to pass an 81.80.

MR. CONTENT: Now, how can he tell that? The man may have written five hundred words a minute. He testified to the requirements, that he should write not less than 120, and not more than 130, that is the requirement.

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THE COURT: I can explain it to you, I am so familiar with the thing. The Civil Service Commission arranges certain ^{notings} ~~weights~~ that are to be given to each thing. It is exactly the same, we will say, as an examination for entrance to a college, or an examination when a man is in college. So much is given to this subject, so much to that, so much to the manner in which a thing is done, and so forth and so forth.

So that when an applicant is submitted to an examination a regular civil service commission examiner is assigned to that meeting, of course, but with the standard that has been given him, but of the percentage that the man should have, so much is for speed, so much is for accuracy, and so forth.

Now, there is no way of telling, so far as these records show, at least, the precise number of words that a man, a given candidate was able to write in a given time, excepting that in order to pass one of these papers, shown him, he must be able to write 120 -- between 120 and 130 words, or something to that effect. That is all there is about it. We could not any more figure out what he actually did than you could work out the legendary Chinese puzzle.

Now, Mr. Skelley has taken the totals of two of these examinations from the files. If you want them, you can have them. I will read it -- this is a little complicated --

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I call your attention to it in view of the fact that Mr. Skelley has called my attention to it, so that all the facts may be fully in evidence; in the examination where the applicant received 82.90, the list established January 11, 1911, on speed he received 90, accuracy 82, spelling 100, copying 74. Now, each of those is multiplied by the ^{ratings} ~~weights~~ that you heard me read before, so that it would be 90 multiplied by 2 is 180 for speed; 82 multiplied by five is 410 for accuracy; 100 multiplied by one is 100 for spelling; 74 multiplied by one is 74 for copying; that total is 764; transcription 65, making a total of 82.90.

MR. CONTENT: That is the same one about which Mr. Skelley testified?

THE COURT: Yes. Now, the last examination, where he received 81.80, Mr. Skelley has an extract from the records of the Civil Service Commission as follows: Third grade requires an average of 85 per cent, and 120 or 130 word test: 91 multiplied by one equals 91; 95 multiplied by 1 equals 95; 55 multiplied by two equals 110; 87 for speed, multiplied by two, is 174; 87 for accuracy, multiplied by 4, is 348. That totals 644, with a result of 81.80.

Now, the third grade is higher than the second. The

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notification is for a third-grade stenographer.

On his transcript he transcribed the dictation given at 120 words a minute. He therefore failed to get the general average of 85 per cent on the entire examination, required by the terms of the advertisement.

Q Now, let me ask you about that. You found from the records they showed he took dictation at 120 words a minute?

A Yes.

Q But on some other elements, like spelling, or other matters, he did not sustain that 85 per cent?

A No, sir.

Q Is that correct?

A That is correct.

Q So that that was a passing examination for the second grade which fell a little under the third?

A Fell a little under the third.

~~THE COURT: I think that exhausts it pretty well.~~

~~Now, if there is nothing further, we can excuse Mr. Skelley because he is a public official.~~ X

BY MR. CONTENT:

Q May I ask, just as a summary, that he passed satisfactorily, the examinations on three different occasions?

A Yes.

BY MRS GOLDMAN:

Q Can you tell us whether Mr. Randolph is a duly quali-

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fied stenographer in the Police Department now?

A He is a patrolman now, so far as I know, that is as it was.

Q He is not a police stenographer then?

MR. CONTENT: ~~There is no such thing as a police stenographer.~~

THE WITNESS: ~~There is such a thing as a court stenographer and stenographer, there are only two details, stenographer and court stenographer.~~

Q Well, what I really wanted to ask you -- you will pardon me if I don't use the exact terms -- whether he is a qualified stenographer in the Police Department?

A He has never been appointed as a stenographer to the Police Department.

Q He has not?

A No.

~~MISS GOLDMAN: May I ask the age of Mr. Randolph at the different examinations?~~

~~MR. CONTENT: That is already in evidence.~~

~~MISS GOLDMAN: Just a moment, please. Will the stenographer be good enough to read the age.~~

~~MR. CONTENT: I could give it from recollection.~~

~~THE WITNESS: Twenty years on the first examination.~~

~~Q The first examination was 1907, and the second was --~~

~~THE COURT: I thought the thing had been made very~~ X

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simple.

MR. CONTENT: She wants the age.

THE COURT: Yes, but there is no use wasting time on that. The examination of patrolman gives the date of his birth, and the record also shows in addition the different dates, so that that can be arrived at without spending time. It shows that Mr. Randolph was born on January 27, 1888, at New York City, and the various ages -- in the first one he said, as I recall it, that he was twenty. Then, another 22, etc.

MISS GOLDMAN: May I get through the stenographer just what the age was at the second examination, and when the second examination took place?

MR. CONTENT: It is easier for Mr. Skelley to find it than it is for the stenographer.

THE WITNESS: Twenty-two years of age. The application was filed September 27, 1910.

Q The second examination was when?

A The second application filed by William H. Randolph for the position of stenographer and typewriter was presented to the Civil Service Commission on September 27, 1910, at 12:32 P.M.

Q And he gave his age as what?

A He was aged then twenty-two years, at least "I am 22 years of age".

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~~Q He was 20 in 1907, and 22 in 1910?~~

~~MR. CONTENT: They were different months in 1907 and 1910. That is an unfair question.~~

~~THE COURT: That can be all gone into afterwards. I called attention to the fact that the young man said he was born on January 27, 1888. Anything else, Miss Goldman?~~

~~MISS GOLDMAN: That is all; that you may wish.~~

~~MR. BERKMAN: Just one moment.~~

EXAMINATION BY MR. BERKMAN:

Q I want to make sure, I did not hear everything. Did I hear him say Mr. Randolph passed or did not pass the last examination?

THE WITNESS: Which examination?

Q The last -- I did not hear the year 1913, or something.

A He filed applications on three times, for the position of stenographer and typewriter, he took the examinations, and passed the three examinations. He also filed an application for patrolman, and he passed the examination for patrolman, and was assigned as a patrolman and was reported as a patrolman.

~~MR. BERKMAN: You read 100 words were the requirement for the purpose of the test.~~

~~MR. CONTENT: I object. Your Honor has already told him it was 120 to 130.~~

~~MR. BERKMAN: And then he said 100 -- I am not clear~~ X

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~~about that. It read at one time 100, and then one time 130 to 130. That is not 100.~~

~~THE WITNESS: That is, he took 100 words?~~

~~THE COURT: What one do you mean now?~~

~~MR. BERKMAN: I heard Mr. Skelley read from 120 to 130, and then he gave 100 words in a certain examination.~~

~~THE COURT: We might as well make this sure. In September, in the application of September 13, 1910, for the examination to be held on October 25, 1910, there is a statement, among other things: Shorthand, for dictation, to be given the rating as follows: If the party take down correctly 100 words per minute, 70 per cent; 110 words per minute, 80 per cent; 120 words per minute, 90 per cent; 130 words a minute, 100 per cent.~~

~~MR. BERKMAN: That would be 100 words for 70 per cent. I would like to know from the Court whether we may consult the stenographer here in regard to these technical matters?~~

~~(At this point a man arose in the courtroom).~~

~~THE COURT: I recognize nobody but the lawyer for the defendants.~~

~~MR. CONTENT: I object to this gentleman standing up in court.~~

~~THE COURT: If you have questions to ask, you can ask your stenographer, and he may compute it.~~

~~(Consultation between Mr. Berkman and his stenographer).~~

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MR. BERKMAN: There is a statement at one point that this stenographer shows that Mr. Randolph did not become a third grade stenographer, for the reason that he did not have sufficient percentage in stenography.

THE COURT: That is true, that is correct.

MR. BERKMAN: So that he did not pass the stenography examination.

THE COURT: He certainly did. The record shows that he passed three times as a second grade stenographer. The last time he passed as such, but did not pass as a third grade stenographer for the reason that he had not attained the average of 85 per cent, although his speed was 120, I think, or 130, I have forgotten -- 130 words, -- will you please produce that again (addressing witness)?

One hundred and twenty words. Now, your stenographer, -- I will repeat it for his benefit -- on the third grade stenographer examination, on his rating he transcribed the dictation given at 120 words a minute, and he failed to get a general average of 85 per cent on another examination, required by the terms of the advertisement.

MR. CONTENT: Third grade is higher than the second. That is why the salaries are different.

THE COURT: Let me ask one question:

BY THE COURT:

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BY THE COURT:

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Q What percentage in that examination was given for one to become a third-grade stenographer?

A 85 per cent.

Q And I will ask you again, for clearness, the lowest in grade is 1?

A Grade 1.

Q And 2 is higher, and 3 higher than that, and so on?

A There is a fourth grade, where they take notes, a court stenographer.

~~THE COURT: Very well. That is all.~~ X

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M A R Y E L E A N O R F I T Z G E R A L D , recalled.

DIRECT EXAMINATION BY MISS GOLDMAN:

Q Miss Fitzgerald, a check of mine, signed by you, was brought into evidence?

A Yes.

Q I want to ask you about the power of attorney which I gave you. Do you recall what was the particular occasion of my giving you the power of attorney?

A I do.

Q What was it, please?

A It was on the 14th day of June that I went to the bank with you.

Q you went to the bank with me?

A Yes.

THE COURT: 1917?

THE WITNESS: 1917, June 14, 1917.

Q What bank, please?

A The New York Produce Exchange, the Harlem Branch.

Q I had intended to ask this question later, but I state it now: What was the occasion, why should I suddenly, since I never had given you power of attorney before -- what was the occasion of my giving you power of attorney at that particular date?

A You had been threatened with arrest by Marshal McCarthy, on the night of June 11, at the meeting at the Royal

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palace on 114th street.

Q Was there anyone else at that meeting who suggested arrest?

A Mr. Content said he was sorry he was not an officer, he would like to arrest you.

Q Then you went with me to the bank, and I gave you a power of attorney, expecting a possible arrest?

A Yes.

Q Have you any knowledge whether I -- do you remember my drawing any money?

A I do.

Q How much?

A You drew a check on -- you cashed a check for \$500.

Q Are you sure I cashed a check?

A Well, you drew --

Q Drew some money?

A Drew some money from the bank, from your deposit.

Q Will you please be good enough to say how I drew the check, the money?

A It was from a fund that you had of \$3000, out of which you drew \$500, as I remember it, from that fund.

Q What was done with the \$500?

A \$300 were turned over to the Mother Earth account, for the magazine, and \$200 was a debt that you owed Mr. Berkman.

Q In giving you the power of attorney, because of the

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threatened arrest, what was the purpose of giving the power of attorney to you? What was my conversation when I gave you the power of attorney?

A So that I would be able to write checks in case you were arrested.

Q You said I drew \$500 from a fund of \$3000. Did you have any knowledge of the source of that fund?

A I have.

Q Where did it come from?

A It was given to you by a man named James Hallbeck, an old friend of yours.

~~Q And what became of the balance after I drew the \$500? Did you get any receipt for any amount of money?~~

~~A I got a deposit receipt.~~

~~Q For how much?~~

~~A \$2400.~~

~~Q Why was that receipt turned over to you?~~

~~A I was going to the office, and you had another engagement, and I took that receipt to the office, and it was, -- I had not returned it to you when the arrest came, that following day, on the 15th, I still had it in my possession, and Officer McGee, as he testified, took it from me, and made a notation of it.~~

~~Q Did he return the receipt?~~

~~A Yes, I have that.~~

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✓ BY THE COURT:

Q I don't quite understand. I don't know as it makes any difference; you mean a certificate of deposit from the bank, or what?

A A certificate of deposit.

Q That is what you mean by a receipt?

A Yes.

MR. CONTENT: That is what Mr. McGee testified to.

THE COURT: I just wanted to find out.

THE WITNESS: Yes, that is it.

MISS GOLDMAN: May I call Mr. Hallbeck now, as a witness.

MR. CONTENT: I object to this fragmentary evidence.

THE COURT: You must exhaust Miss Fitzgerald.

MISS GOLDMAN: I have exhausted the questions with Miss Fitzgerald.

THE COURT: Any more questions?

MR. CONTENT: I would like to examine, if Mr. Berkman has nothing to ask.

THE COURT: Any questions, Mr. Berkman?

MR. BERKMAN: Miss Fitzgerald was excused from her examination this morning, and I don't exactly remember what the last question was.

THE COURT: You can't go back to that now. I have been very liberal about this, but I cannot have her going X

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~~back and forth on the stand.~~

~~MR. BERKMAN: I only want to ask this one question.~~

BY MR. BERKMAN:

Q After reading Miss Goldman's letter at the committee meeting of the No-Conscription League -- Miss Goldman's statement or letter, whichever you call it -- on May 2³, at that meeting did the League take any decision with regard to registration, or its attitude upon registration?

A It did.

Q What decision or position did the League take?

A That the League would not advise people to register or not to register, it was a matter of individual conscience.

~~MR. BERKMAN: That is all.~~

CROSS EXAMINATION BY MR. CONTENT:

Q You have testified to some alleged conversation I had with Miss Goldman on June 11. Will you please state that entire conversation between myself and Miss Goldman, and not fragments of it?

A As I remember it, I will try to state it to you. I think Miss Goldman --

Q Wasn't I near the door?

A You were in the hallway.

Q Near the exit?

A Near the exit. And Miss Goldman said to you, why are you hustling and pushing -- or why do you allow the soldiers

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and police to hustle and push men, when you know they are over the age of this examination, 21 to 25, and you said, that you were not a police officer, and Miss Goldman said, "You acted like one", and you said, "I am sorry I am not one, I would like to arrest you." I think I have stated it.

MR. CONTENT: I think that is fairly accurate.

Q Would you allow me to ask this: It is my memory that Miss Goldman started the conversation, and not myself. Is that correct?

A Why, she said to you, why do you permit the soldiers --

Q I mean, she spoke to me first, and not I to her -- I mean she spoke to me first, and then I spoke to her then.

A I think she spoke to you first.

Q And that was as she was going out?

A As she was going out.

Q And you were with her?

A Yes.

Q And I was standing at the door?

A In the hallway, some distance from the door, going into the balcony, or the exit, and you were about halfway between in that hall.

Q There was a hallway leading from the balcony?

A Yes, into some sort of a flight of steps.

Q You had to go up a few steps to get to the hallway?

A Yes, but you were in the hallway.

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Q Near the exit?

A About halfway between the two doors.

Q Up in the balcony?

A No.

Q Is it true the Marshal was in the balcony at that time?

A Yes, we had just left the balcony at that time.

Q Isn't it true that Miss Goldman asked me, "Mr. Content, this is an outrage, the holding up for registration cards of men of about forty years of age"?

A That is true.

Q Something of that sort?

A Yes, men of that age, and older were.

Q And didn't I tell her that was in charge of the Marshal, that I was a lawyer, not a police officer?

A I did not hear her tell you as to that.

Q And then she said I acted like a policeman?

A She said you looked like an officer.

Q Well, policeman, I think she said, and then didn't I reply "I wish I were", I might lock her up?

A You said, "I wish I were, I would like to lock ~~her~~ up".

MR. CONTENT: That is it. That is right.

Q That was the whole conversation. But you will admit I did not start anything myself?

A No, Miss Goldman did speak to you first, as a public officer, you were there with the soldiers. And I think she felt

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you had the right.

Q I merely expressed a great desire to lock her up, and not a threat?

A It can be turned either way, I suppose.

~~BY MISS GOLDMAN:~~

~~Q What was the occasion of my speaking to Mr. Content on that particular evening?~~

~~A Because the soldiers hustled and pushed about men of the age of forty-one or forty-two or forty-five, and for that reason you went to Marshal McCarthy and said that you saw two soldiers insult a man, and he said --~~

~~MR. CONTENT: I object to this on the ground that she was not present and didn't know anything about it? The testimony as to what I said to Miss Goldman is the testimony that was brought out.~~

~~THE COURT: Objection sustained. It is all immaterial anyway.~~

~~MR. CONTENT: yes, but your Honor will appreciate as an officer of the Court I had to bring out the whole conversation.~~

~~THE COURT: Yes, but all this is utterly immaterial.~~

~~MISS GOLDMAN: It is material to us, and we will bring it out in our summing up.~~

~~THE COURT: I am speaking of the law of the matter.~~

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~~These conversations are quite immaterial.~~

~~MISS GOLDMAN: Exception.~~
BY MISS GOLDMAN:

Q Then you remember my asking Mr. Content as to whether it was necessary to hustle people by soldiers?

A Yes, I think so.

Q Was I in any way discourteous to Mr. Content?

A You were not.

Q I spoke quietly?

A You did.

Q And frankly asked for information?

A You did ask for information.

Q Was Mr. Content very courteous when he answered?

A Well, when he said, "I would like, -- I wish I were an officer, I would like to arrest you", it was not a courteous tone.

BY MR. CONTENT:

Q That was after Miss Goldman said to me that I was acting like a policeman?

A You said that after she said that.

~~THE COURT: We have had enough about that.~~

~~MR. CONTENT: Well, all these things are apt to reflect upon attorneys.~~

~~THE COURT: That don't make a particle of difference.~~

~~MR. CONTENT: I would like to ask this one question:~~

~~BY MR. CONTENT:~~

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Q Now, at the time that Miss Goldman first spoke to me, was my first answer to the effect that I had nothing to do with it, that it was in the hands of the Marshal -- Wasn't that courteous?

A Well, Mr. Content, if you will leave it up to me, you were not very courteous to Miss Goldman that evening.

Q And I ask you this, wasn't my answer to her first question that I was a lawyer, and not a policeman, and had nothing to do with it?

A I didn't hear about your being a lawyer, but that you were not an officer.

Q Didn't I tell her it was in the hands of the Marshal?

A Yes.

Q Was that discourteous?

A You were not very courteous to her.

Q Wasn't that after she told me I was acting like a policeman?

THE COURT: Well, we will not bring courtesy into the case.

MR. CONTENT: Well, I don't care.

MISS GOLDMAN: That is not important.

MR. CONTENT: Except that these things reflect upon attorneys.

BY THE COURT:

Q You say that on May 23rd, the League came to a deci-

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sion?

A Yes.

Q Who was the chairman of that meeting, if there was one?

A I think Mr. Berkman was chairman of that meeting.

~~Q He was chairman, was he?~~

~~A Yes.~~

Q Was any resolution put? Did anybody offer a resolution, "Resolved that the No-Conscription League do or do not do such things, such and such matters"?

A I don't know that it was put in the form of a resolution. When Miss Goldman's letter or statement was read, Miss Goldman's statement was read, then there was a general discussion, and some of the delegates from those anti militaristic leagues, some of the members of the No-Conscription League, some were for registration, and some against registration, and so on, and then finally I know that no stand was taken by the league.

Q Now that is a conclusion. Did anybody put the question to a vote, an aye and nay vote of the people there present?

~~X MISS GOLDMAN: Pardon me --~~

~~THE COURT: No, just a minute. You can examine afterwards. Now answer the question.~~

~~MR. BERKMAN: Because, I was chairman~~

~~THE COURT: You must keep still. Wait until I get through.~~

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~~MR. BERKMAN: She can't answer the question.~~

~~THE COURT: Now, Mr. Berkman, you want to be good.~~

~~THE WITNESS: I was not in the room all the time.~~

Q Now I am asking a very simple, direct question:

Was any specific vote taken, an aye or nay vote taken?

A I don't know.

Q You don't know?

A I don't know whether there was one or not.

Q Will you say it was done, or that you don't know anything about it?

A I don't know whether such a vote, such an aye or nay vote was taken. I don't know that. But I do know there was discussion.

Q But, answer the question. I am not asking for, I am not talking about discussion around the circle, but where twenty-five or thirty or forty or whatever number of people were there, you don't know whether such a vote was had?

A The form of a vote, I don't know.

112 Q Do you know whether the question was put?

A The question was put, yes, and there was discussion on it.

Q By whom -- what was the question?

A The question whether -- the stand the league shall take in this matter, whether they -- this is as I understand --

Q Who put the question?

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A It all came up after reading Miss Goldman's statement.

Q Who put the question?

A Mr. Berkman brought up the discussion.

Q What did he say?

A Why, the statement was he was trying to bring out, to encourage the others --

Q Just one moment. You have been here long enough now to know I am asking for words or their substance. What did Mr. Berkman say?

A After Miss Goldman's statement was read Mr. Berkman made a few remarks of his position on registration, and asked for a discussion of the people that were in the room, which followed.

THE COURT: All that has been brought out so far, as I understand the testimony-- the jury will take their own view of it -- is that some people said that they would not register, and some said they would.

Q Now, I want to know if at any time in the course of that meeting a definite question was put to the persons present, and the persons there present answered that question in regard to a resolution not to urge people not to register. Now you can answer that yes or no, or state you have no recollection?

A I don't know whether it was put in the form of a vote, your Honor.

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Q Well, will you say you don't know, or --

A I was not in the room all the time, I was in the hallway.

Q Now then, when you were at that meeting, so far as you were there, there was no such matter in distinct words framed and put to the persons to get the view of each and every person present.

A You mean about the letter?

Q What I am getting at is was it framed in words -- the language I am not particular about -- "do you favor our interfering with registration?" or, "Do you favor our not urging people not to register?" Was anything in substance said to the persons present in that manner?

A The meeting --

Q Answer yes or no.

A I don't know.

Q You don't know?

A I don't know that we put it in that form. It was a discussion of the people, and they discussed whether --

~~MR. BERKMAN: Pardon me. May I object to the Court asking such questions.~~

~~THE COURT: You may.~~

~~MR. BERKMAN: And may I state the reasons?~~

~~THE COURT: All right. You may state your reasons.~~

~~MR. BERKMAN: It has been testified here that I~~

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~~X was chairman. As an anarchist such things don't happen.~~

~~THE COURT: Very good. I don't care what happens at anarchist's meetings. She has not been asked this question.~~

Q Now, answer my question.

A Whether it was put to those people -- you mean put the motion to each to give his views on the subject?

Q Yes.

A Yes, sir, but all that was an informal meeting.

Q Can't you answer the question yes or no.

A Yes, sir, there was a discussion, that is all.

Q Can't you answer my question? It is a perfectly simple question -- was that put to that meeting?

A I don't know that it was put in that form.

Q Was there any vote taken upon any proposition. I don't mean informal language, but was there any vote taken so that you knew how each and every person stood?

A There was no vote taken like that. The different ones expressed their views, and they were not pinned down, and written down.

Q There was no minute of any kind taken, any memorandum?

A No, there was not a vote, or a minute of the meeting. It was an informal meeting for discussion.

Q Now, in addition to the members of the No-Conscription League present, there were these people you called delegates

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from other organizations?

A Yes, sir, they expressed their views.

Q They had nothing to do with the No-Conscription League, did they?

A They came to --

Q I don't care about that, but they had no part in the programme or the policy of the League?

A No, sir, they were in sympathy with our work, and they came in because we happened to have a conference there.

Q But they had no part in determining the policy of the No-Conscription League, what it should be?

A No, they were independent, but they expressed themselves there.

Q Is it your statement in answer to the question that the League, then, according to your testimony, passed upon what you have termed an informal discussion, is that your answer?

A You ask me what stand the league took, or passed at that informal meeting?

Q Yes.

A It was an informal meeting, and at that time it was stated emphatically by us that we should give no advice as to people registering or not registering, but it was not written down in the form of minutes.

Q Was that ever written in any form, whether in printing

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or circulars, or anything else?

A I think some of the form letters we sent out had such a statement.

Q You do think so. Do you recall which letter?

A I would have to look them over, but I am sure that some of the written matter contained that statement, that the matter of registration was left entirely to his own conscience. I think you will find that in our literature and matter.

~~THE COURT: If there is anything further you want, you may inquire.~~

BY MR. BERKMAN:

Q You have been present on various occasions when I was chairman of the meeting?

A I have.

Q Did I put any matter ever to a vote?

A No, sir, you did not.

113 [Q Why not?

A It is not the custom at anarchist gatherings.

Q When I was chairman of this No-Conscription informal meeting of May 23rd, did I on that occasion, or any other occasion, put any question in a formal manner?

A No.

Q Did I only want each one person to express their views?

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A Yes.

Q Did I put any question in any form at all, that was formal like a regular meeting?

A No, the meetings were all informal.

Q Is a vote ever taken at any of our meetings?

A No.

Q Either public or private?

A No.

~~MR. BERKMAN: That is all.~~

BY MR. CONTENT:

Q Do they ever put questions at an anarchist meeting?

A You mean ask questions, or a lecture?

Q No, do they ever put a general question to the members present, to the audience in an anarchist meeting, a question that is submitted by the chairman -- ever put a question to the audience to be answered affirmatively or negatively?

A Well, sometimes questions are asked.

Q Now, do you say, as I understand you, that at an anarchist meeting you never put a question to a vote, is that correct?

A In our meetings, and planning our work, we do not have a formal vote, where we ask the person to say aye or no, etc.

Q You do not?

A No, sir.

~~Q Were you present at the meeting at Forward Hall, on~~

~~July 1st.~~

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~~A I was.~~

~~Q Did not Mr. Berkman put this question to the assembled throng: "What is your opinion of Becker and Kramer? Are they cowards or brave men?" And did not the audience shout, "Brave men?"~~

~~A That is not a fact.~~

~~MR. BERKMAN: I object. That was not put in the manner of a vote, and I merely asked the views upon the matter.~~

~~THE COURT: Yes. Sustained. Strike it out. Is there anything further with Miss Fitzgerald?~~

~~MR. CONTENT: That is all.~~

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J A M E S H A L L B E C K , a witness called on behalf
of the defendants, being first duly sworn, testified
as follows:

DIRECT EXAMINATION BY MR. BERKMAN:

Q How old are you, please?

A I will be eighty years my next birthday, in November.

Q Where were you born?

A In Sweden.

Q How long have you been in this country?

A Fifty years and three months.

Q Are you a citizen?

A Oh, yes, for forty years.

Q How many years?

A Forty years.

Q You are not in active business now?

A No.

Q you have retired?

A Yes.

Q You live on your income?

A My income is an annuity.

THE COURT: He has an annuity.

Q Have you known Miss Goldman a long time?

A Yes, I think for nearly thirty years.

Q Have you known Alexander Berkman for a long time?

A Not so long, I guess about three years.

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Q Did you ever see Mr. Berkman in San Francisco?

A Yes.

Q Did Mr. Berkman ever visit you in your hotel at San Francisco?

A Yes.

Q Do you remember a visit on one occasion in which Mr. Berkman explained to you that he wanted to publish a paper?

A Yes.

Q In San Francisco?

A Yes.

Q Did you contribute toward the publication of that paper?

A I did.

Q For the Blast?

A For the Blast.

Q Did you contribute on several occasions for the Blast?

A Yes.

Q Contributed money?

A Yes.

Q Various sums?

A Yes.

Q Did you contribute in the past toward the Mother Earth magazine?

A Yes.

Q You were interested in Mother Earth?

A Yes.

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Q And sent money now and then?

A Yes.

Q You were living at the time in San Francisco?

A Yes.

Q How long are you in New York?

A It will be one year the 11th.

Q One year on the 11th.

A Of this month.

Q On the 11th of this month?

A Yes.

Q Do you remember seeing me in San Francisco before you left for New York?

A Yes.

~~Q Do you remember I asked you what was the object on which you were going to New York?~~

~~A Yes.~~

~~Q The reason?~~

~~A Yes.~~

~~Q Do you remember that you told me --~~

~~MR. CONTENT: I must object. How does his coming to New York have anything to do with the conspiracy to induce people not to register? He came to New York, didn't he?~~

~~THE COURT: Yes, that is utterly immaterial.~~

~~Q How long -- all right, you are in New York. Do you~~

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remember how long you are in New York -- do you remember

I came from San Francisco to New York?

A Yes.

Q Did you come up to see me?

A Yes.

Q Do you remember the date approximately when you came up? A Well, no, not exactly, I don't remember.

Q Where did you come up to see me?

THE COURT: He says he don't remember. I will let you ask him the date. Perhaps that will help him.

Q About the 19th of January, I think, I am not sure about that. It was about that time?

A All right.

~~MR. CONTENT: This is testimony by Mr. Berkman. but we will concede it, to his age.~~

Q It was in January?

A In January.

Q You came up where to see me?

A I came up to see you in Miss Goldman's.

Q At Miss Goldman's office?

A Yes.

Q At Mother Earth?

A Yes.

Q Was that in 20 East 125th street?

A Yes.

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Q In which room, if you know, Mr. Hallbeck?

A On the third floor, on the third floor.

Q How many flights of stairs did you go up?

A No, no, it was on the second floor at that time, I remember.

Q Was it in the back room?

A Yes.

Q When you came in, did you ask for Mr. Berkman?

A I did.

Q And they showed you into my office?

A Yes.

Q Do you, or did you know I was any time interested in that prisoners' ball?

A Yes.

Q Do you remember personally receiving ball tickets from me?

~~MR. CONTENT: That has this got to do with this other question?~~

~~MR. BERKMAN: It will appear in a minute.~~

~~Q Do you remember receiving ball tickets for the ball?~~

A I did.

Q Do you know, or do you remember paying money for the ball tickets?

A Yes.

Q Tell us what you did when you were sitting there

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talking?

A I gave a check to Miss Goldman.

Q For how much?

A Three thousand dollars.

~~Q Three thousand dollars?~~

~~A Yes.~~

Q The check was cashed?

MR. CONTENT: Was the check cashed, the question should be.

Q I mean was the check cashed?

A (No answer).

Q When you gave the check to Miss Goldman for \$3000, do you remember saying anything?

MR. CONTENT: I object.

Q What did you say to do with it?

A Helping the issue of Mother Earth, and lectures, etc.

Q You said the money is for the purpose of issuing Mother Earth, lectures, etc.?

A Yes.

Q Did the bank sent the cancelled check back to you?

A Yes.

Q Have you the cancelled check with you?

A Yes.

Q Please produce it.

(Produced by witness).

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MISS GOLDMAN: I would like to put that in evidence, your Honor.

MR. CONTENT: No objection.

THE COURT: Let the Clerk mark it.

(Marked in evidence as Defendants' Exhibit A).

~~MR. BERKMAN: May the defense pass that check to the jury.~~

~~THE COURT: It may.~~

~~MR. CONTENT: Not that I could not have given out a check of large size here as evidence.~~

~~MISS GOLDMAN: Your Honor, I think you will hear me out that I have been very courteous. I would like the Court to instruct Mr. Content not to be insulting.~~

~~MR. CONTENT: I said I didn't object.~~

~~MISS GOLDMAN: That is not what you said.~~

~~MR. BERKMAN: What did Mr. Content say?~~

~~MR. CONTENT: I object.~~

~~MR. BERKMAN: It is not important anyway.~~

MISS GOLDMAN: The check is dated New York, January 23, 1917; it is from the Equitable Trust Company of New York. It is made out to the order of Emma Goldman, \$3000, and signed by Mr. James Hallbeck.

~~THE COURT: Anything else you want of him?~~

BY MISS GOLDMAN:

Q Mr. Hallbeck, when you were courteous enough to hand

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me the check, did you or did you not say that it is for your work, Miss Goldman?

A Yes.

~~Q Did you not also find that I was very surprised to get such a sum?~~

~~MR. CONTENT: Wait a moment. I object to this as leading, and calling for the conclusion of the witness.~~

~~THE COURT: Sustained.~~

~~MISS GOLDMAN: That is all.~~

BY MR. CONTENT:

Q How old did you say you were?

A I will be eighty years in November.

~~MR. CONTENT: That is all.~~

BY THE COURT:

Q What has been your business, Mr. Hallbeck?

A A tailor by trade.

Q How long have you been retired from business?

A About seventeen years.

Q And you have this annuity, do you?

A Yes.

~~THE COURT: That is all.~~

BY MR. BERKMAN:

Q Notwithstanding your great age, Mr. Hallbeck, how is your memory?

A pretty fair.

~~(Recess for 5 minutes).~~

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W A L T E R B R O D I E , a witness called on behalf
of the defendants, being first duly sworn, testified
as follows:

DIRECT EXAMINATION BY MR. BERKMAN:

Q Mr. Brodie, where do you live?

A I live at 228 South Third street, Brooklyn.

Q What is your occupation?

A I am a contributor to magazines.

Q What magazines, for instance?

A I am a contributor to the Atlantic Monthly, the Outlook, the Seven Arts, and various other magazines; have also been associate editor of several magazines, but not at the present time.

Q Are you connected in some way with the Red Cross?

A Well, I am not exactly connected, but some of my work is going to be used, is going to be sold for the benefit of the Red Cross, and some song of mine has been set to music for the benefit of the Red Cross.

Q Have you something to do with a fund for the Belgian war sufferers?

A Why, part of my time has been spent for the amelioration of the poverty of professors and artists ruined by the war, that is to say, collecting funds for the benefit of Belgian professors and artists of schools ruined by the war.

Q Have you also contributed work for the benefit of

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the Canadian wounded soldiers?

A Yes.

Q Were you at the Harlem River Casino meeting May 18?

A Yes.

Q Are you a native of this country?

A No.

Q Where were you born?

A I was born in Russia.

Q Where?

A Russia.

Q In Russia?

A Yes.

Q Had you attended any of our meetings before?

A No.

Q That was the first meeting?

A That was the first meeting, that was the first time that I attended.

Q That was the first meeting you attended?

A Yes.

Q Did you hear Miss Goldman speak at that meeting?

A Yes, I heard her.

Q You came specially to hear Miss Goldman?

A I came specially to hear the opinion of the organization, and organized opinion of the conscientious objectors, because I was a conscientious objector, and I wanted to know

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what to do in connection with registration, and I wanted to hear the organized opinion of conscientious objectors in regard to registration.

Q In regard to registration?

A Yes.

Q You say that that is the purpose with which you came to the meeting?

A Yes, sir, that was the purpose, in order to get advice, and find out, as I said before, the organized opinion of conscientious objectors in regard to registration.

Q What was the advice received there?

A Well, I could get no definite advice on the subject.

Q You did not get any definite advice?

A No, sir.

Q You heard the whole speech of Miss Goldman?

A I heard the most, sometimes the noise drowned her, but the most important parts I think I heard.

Q Did you hear her say, "We believe in violence and will use violence"?

A I heard nothing of that sort.

Q You heard nothing of that sort?

A No.

Q Did you hear anything that sounded anything like that?

A No, quite to the contrary.

Q Please explain what you mean.

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A I heard her repeatedly during the meeting, asking the audience to refrain from answering any attempts at violence on the part of the soldiers. Repeatedly I heard her say that.

Q Do you remember what you heard her say?

A I heard her ask the audience that they should refrain from answering these attempts of violence on the part of the soldiers.

Q Did you hear Mr. Berkman speak at that meeting?

A I heard him but I could not hear him very distinctly.

Q Did you hear Miss Goldman tell the audience that she advised them not to register?

A No, that is exactly what I did not hear. I thought I would hear it, but I ~~did not~~ hear it.

Q You came to hear that?

A I was under the impression that Miss Goldman stood for that, but I came to the meeting and found Miss Goldman did not stand for that.

Q You thought Miss Goldman stood for the advice not to register, and you found she did not stand for that?

A Yes.

Q So you must have been disappointed?

A I was disappointed.

~~Q You were disappointed in the meeting?~~

~~A I was disappointed.~~

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Q Were you disappointed in my speech?

A I did not hear your speech.

Q Were you very anxious to get definite advice with regard to registration?

A Yes, that was the reason I went to the meeting.

Q What did you do besides going to the meeting to get advice?

A Well, after, because I was unable to get definite advice at the meeting, I thought I would go over to the headquarters of the No-Conscription League, and find out whether they would give me definite information on the subject, whether they would give me any definite advice.

Q You came to the headquarters of the No-Conscription League to get definite advice?

A At 20 East 125th street.

Q 20 East 125th street?

A Yes.

Q You went up there to get definite advice?

A I went for the purpose of getting definite advice on the subject of registration.

Q Did you get definite advice there?

A I went up to the No-Conscription League --

Q Did you see me there?

A No.

Q Miss Goldman?

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A No.

Q You saw someone else?

A I saw two gentlemen who said they were connected with the No-Conscription League.

Q Do you know who the gentlemen were?

A I don't know them by name. I remember them very, very slightly.

Q You spoke to them for advice, from the No-Conscription League?

A I told them I was a conscientious objector, and that I was unalterably opposed to national conscription, but in connection with registration I was undecided, and wanted definite advice on the subject.

Q You asked for definite advice, and what advice did they give you?

~~MR. CONTENT: Now, I object on the ground that here were two unidentified people who were not the defendants, and what they said to him is in no way binding in this trial.~~

~~MR. BERKMAN: I believe that the question is very material, and very relevant, for the purpose of showing that the representatives of the League carried out the will of the meeting, following the general policy of not urging or advising anyone to give any information to register or not to register.~~

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✓ THE COURT: All right. Ask what these people were doing. ✓

THE WITNESS: They were at work in the office, sending out circulars.

✓ THE COURT: Could you identify them if you saw them?

THE WITNESS: I think I could.

THE COURT: Well, give us a brief description of them.

THE WITNESS: One of them was sort of tall and thin, and wore glasses, and the other one was a stout looking man about forty.

THE COURT: I will let him answer as to what they said to him. ✓

THE WITNESS: They told me that they could give me no definite advice on the subject, but advised me to do exactly as my conscience demanded. Furthermore, they said that the opinion of the No-Conscription Leagues in the United States was divided on the subject, and several of them were in favor and several were not; and that the No-Conscription League in particular, also, was undecided on the subject, some of the members were in favor, and some of them were not, and so they decided to say that their position was to leave it entirely to the conscience of the individuals.

Q So that you got no definite information?

A No.

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Q You got no advice there on registration?

A Yes, no advice.

Q And they told you the League left it to the conscience of each individual, to go according to his best understanding?

A Yes.

~~MR. BERKMAN: That is all.~~

CROSS EXAMINATION BY MR. CONTENT:

Q Who were the speakers at the May 18th meeting?

A Well, I don't remember all of them, but those I do remember were Mr. Berkman and Miss Goldman, and I think Mr. Weinberger, Mr. Leonard Abbott, and a few others, but I do not remember the others.

✓ Q Were you in court this morning?

A Yes, I was waiting for my turn.

Q Did Miss Goldman, according to your recollection, make any mention of the word, "register" or "registration", in her speech?

A Yes.

Q What did she say?

A She said there were many men who will not register.

Q She said that?

A Yes.

Q Did she then give the source of her information in her speech?

A She did not. But that did not satisfy me.

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Q. Did she say anything else about registration, to your recollection?

A. Nothing else.

Q. Did she say anything about conscription?

A. About conscription — I don't remember exactly, in exact words, but in general, she discussed it as being immoral and illegal.

Q. Did she mention the names of any American statesmen, Congressmen or Senators?

A. I don't remember that.

Q. Do you remember whether she mentioned the name of La Follette?

A. No.

Q. Did she say this, "How many people are going to refuse to conscript, and I say there are enough. I would count at least fifty thousand"?

A. I don't remember any of the words that she said definitely. I can only remember the gist of what was said.

Q. Do you remember positively that she did not say this: "How many people are going to refuse to conscript, and I say there are enough. I would count at least fifty thousand, and there are going to be more, and they are not going to when only they are conscripted. They will not register"?

A. I don't remember that.

Q. Didn't you say a minute ago she said a number of them

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would not register?

A Yes, I heard her say that, but I did not hear those words.

Q How often was the word "register" or "registration" used?

A Only once, that only once, as I recollect.

BY THE COURT:

Q Are you sure about that, or is that just your present recollection?

A Well, I can only speak from my present recollection.

Q I mean, would you say she did not say that, or are you merely stating your recollection that she said it once?

A I can only recall she said it once.

Q I understand you to say she used the word "violence" in connection with the soldiers?

A Yes.

Q And that word "violence" was used at what time?

A Well, I don't remember the exact time she did it, but I remember, as I said before, I can only remember the gist of what she said, a general impression, not exact words, and I remember she said repeatedly, urged the audience to refrain from answering the attempts at force or violence -- I don't know which word she used, -- on the part of the soldiers, and I also remember of one time the word was passed along to the audience that the soldiers were going to begin

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some kind of a riot, and to be prepared, and not to answer it in any way.

Q Well, you testified on the direct that you heard her say in effect that they were not to answer any attempts of violence on the part of the soldiers?

A Yes.

Q Were any inquiries made by the audience as to whether they were in favor of registration or not?

A No.

BY MR. CONTENT:

Q The audience took no part then, or there was no question on registration, or not?

A No.

~~MR. CONTENT: That is all.~~

~~MR. BERKMAN: That is all.~~

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LEONARD D. ABBOTT , a witness called on behalf of the defendants, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MISS GOLDMAN:

Q Mr. Abbott, what is your profession?

A I am a magazine writer.

Q Are you connected with any particular magazine at the present time?

A I have written for many magazines.

~~THE COURT: The question is, are you connected with one now?~~

Q Are you connected with a magazine now?

A At the present time I am a free lance writer.

~~Q At the present time you are a free lance writer?~~

~~A Yes.~~

Q Mr. Abbott, have you attended any of the meetings of the No-Conscription League?

A I attended the initial meeting, at which the No-Conscription League was organized, two meetings, the two largest mass meetings.

Q At the initial meeting, where did that take place, was that on May 9th?

A It took place in your apartments, I don't remember the exact date.

Q May 9, I think. Can you remember, first of all, the

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Purpose of that meeting?

A The conference was called to express our opposition to militarism, conscription, and to the war.

Q Do you remember a discussion taking place on the subject of conscription?

A Yes.

Q Was there any issue discussed in regard to a large meeting to come before the public?

A That was one of the chief purposes of the meeting, or conference, to arrange a public meeting.

Q Do you remember anything else discussed at that time, in relation to the main purpose?

A Yes, we discussed the purpose of the league, the platform on which we stood, the principles we proposed to defend.

Q What was the next meeting you attended, Mr. Abbott?

A The next meeting was the public meeting, the meeting in the Harlem River Casino, a public meeting.

Q Did you preside at that meeting?

A I did.

Q When I spoke, when you introduced me, and while I spoke, were you in a position to listen attentively?

A I was in a position to hear every word that was said by any speaker.

Q Have you any recollection of my saying, "We believe in violence, and we will use violence"?

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A I have not the slightest recollection of any such statement. In fact, I would say very confidently ~~that~~ that if that statement is credited to your speech that night, it must be some kind of an interpolation. As I remember your speech that night pretty distinctly, and I do not remember any passage in your speech that would be relevant to that. It don't hitch up with your argument.

Q Do you remember at any time in my speech, my telling people not to register?

A No, I have no such recollection. I do not remember that you said anything of that kind.

Q How long have you known me, Mr. Abbott?

A About twenty years.

Q In recent times, say since war was declared, have you any recollection of my discussing the issue of war?

A I have many such recollections.

Q Have you any recollection of my discussing the question of the draft law order which was put out?

A I don't remember. We discussed, I remember, this question on many occasions.

Q Do you remember any time in our discussion, my stating that I would tell people not to register?

A I remember very distinctly that you did not tell them not to register, because, like the last witness here; I was a little bit disappointed that you did not take a stronger and

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more uncompromising attitude in regard to the question.

Q So, you were disappointed?

A I was disappointed that you did not come out more definitely and say to the people they should not register.

Q Since you have known me so many years, Mr. Abbott, will you please tell the Court whether you have received letters from me on a number of occasions?

A Yes, I have received a great many letters from you.

Q Were they in my handwriting, sometimes?

A Yes, they were very frequently in your handwriting.

Q You are a literary man, you said?

A Yes.

Q Do you also read proofs?

A I do.

Q You are used to reading manuscripts?

A I am.

Q Do you find my letters very easy to read?

A I think your handwriting is rather difficult to read, especially for anyone that is not familiar with it.

Q You also attended -- I believe you did -- or rather, did you attend the Hunt's Point Palace meeting?

A I did.

Q Did you preside there?

A I did.

Q Did you, during my address, hear me tell the people

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not to register?

A I certainly did not hear you tell them not to register.

Q And you were disappointed because I did not tell them
not to register?

A I did, particular because I felt you would take a
more extreme attitude than you did.

~~MISS GOLDMAN: That is all.~~

~~THE COURT: Any questions, Mr. Berkman.~~

BY MR. BERKMAN:

Q Did you hear Mr. Berkman speak at the Harlem River
Casino?

A I did.

Q You were chairman of the meeting?

A I was.

Q Sitting where the chairman usually sits, and standing
up to introduce people?

A That is correct.

Q While I was not speaking do you remember seeing me
on the platform?

A You are speaking of the first meeting?

Q Harlem River Casino?

A Yes, I remember it. You were there as a speaker.

Q In what condition was I?

A You had your crutches, and you remarked your foot
was very sore. You sat near the piano at my left, and faced

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the audience.

Q Did, or rather do you remember a few of my friends standing around me?

A I saw a crowd, mostly in front and around it, and a few sitting on the platform.

Q Do you remember the purpose, why they were around me?

MR. CONTENT: Objected to. What has that got to do with it.

THE COURT: It has been stated several times that your friends were around you in order to protect you, to keep people from going on your foot.

MR. BERKMAN: Yes.

Q Did you see any soldiers come up to me, back there?

A I heard at various times during the evening that soldiers made efforts to get on the platform.

Q And you heard me explain to the people that we will leave in plenty of time to let the soldiers on?

A Exactly so.

Q And there were a few arguments about that?

A Possibly, certainly.

Q You heard that soldiers sent up word, a message, asking for the floor. Was that message delivered to you?

A It was delivered to me.

Q What was our reply to the soldiers?

A Our reply was that they could have the floor after

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the meeting was finished.

Q Did you, or do you remember the meeting at Hunt's Point Palace?

A I do.

Q June 4?

A Yes.

Q That was the mass meeting following the mass meeting at Harlem River Casino? Were you chairman at that meeting?

A Yes, I was.

Q As chairman, did you listen to the speeches of the speakers?

A I did.

Q Did you hear any of the speakers talk about violence?

A I heard none of them talk about violence.

Q Did you notice some soldiers in the gallery, in the boxes there, making some disturbance?

A I saw them throwing the bulbs on the speakers.

Q Did you notice that happened when I was speaking?

A I did.

Q Did you notice when I spoke direct to the soldiers?

A I notice you addressed your remarks, some of them, to the soldiers.

Q While you were sitting and listening to my speech, did you understand that most of them, a good deal of my speech, was addressed to the soldiers?

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A Certainly, I understood that and heard that.

Q In a gentlemanly manner?

A You tried to reason with the soldiers, to prevent their assaults upon the audience and upon the speakers.

Q My attitude to them was not one of involving violence, was it?

A It was one of conciliation and an attempt to prevent disorder at the meeting.

Q Did I distinctly appeal to the common sense and reason and conscience of the soldiers?

A You did.

CROSS EXAMINATION BY MR. CONTENT:

Q At the meeting on the 18th of May, did you hear Miss Goldman's speech?

A I paid very close attention, listened carefully to the whole speech.

Q Do you recall the substance of the speech?

A I think I can recall pretty nearly everything.

Q Did she mention the word "registration" to your recollection?

A So far as I remember --

Q Whether she discussed the words "register" or "registration" to your recollection?

A She may have mentioned the word "registration", but the point of the meeting was the vote against conscription.

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Q Was any vote taken upon any question by the audience?

A It was not, there was no vote taken by that audience.

Q You attended -- you did not see the stenographers at the May 18th meeting, did you?

A I did.

Q Did you see any Federal officers there?

A I don't know whether they were Federal officers, I saw stenographers.

Q They were not on the platform, were they?

A I think they were on the platform, no, they were --

Q You have known me for some time, have you not?

A Yes.

Q By sight, and to speak to?

A Yes.

Q You didn't see me at the 18th of May meeting?

A I don't remember that I did.

Q You did see me at the Hunt's Point meeting?

A I think I did, yes.

Q perhaps it may refresh your recollection if I say that I was on crutches, also?

A I don't remember seeing you distinctly at either meetings, but so far as the stenographers were concerned, I remember they were there. They were right on the platform. But I don't remember it so clearly, at the first meeting.

Q Now, you went and introduced the various speakers at

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the Hunt's Point meeting, didn't you?

A I did, at both meetings.

Q You stated in reply to one of Mr. Berkman's questions, that you were disappointed that Miss Goldman did not tell people not to register, -- that is, did not take a more definite stand?

A I say I was surprised.

Q You did not use the word "disappointed"?

A I may have used the word "disappointed", but "surprised" is more accurate.

Q You thought they were going to urge people not to register?

A I thought they were going to take a more extreme attitude than they did on this particular point.

Q Well, on June 4, you knew that the law was a law, to the effect that people must register, of conscriptable age?

A Yes.

Q So that it was your idea, that is to say, your expectation, that they would urge people to violate a definite provision of the law?

A I thought it was possible.

Q Didn't you so express it, in effect, I mean?

A No, I was simply interested in knowing what attitude she would take in that case, whether they would or would not definitely tell people not to register.

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~~Q Were you of the opinion that they should urge people not to register, in so many words?~~

~~MR. BERKMAN: I object.~~

~~THE COURT: Sustained.~~

~~MR. CONTENT: Question withdrawn.~~

Q At that meeting the defendants were expected to present speeches, at that meeting?

A They were to present speeches.

Q And I suppose you made a few introductory remarks, just occasionally from time to time, introducing a speaker, you would say a line or two as to who they were, is that correct?

A That is correct.

Q On one occasion you read a written speech by a Roumanian woman, Mrs. Yuster?

A That is correct.

Q Who was not a speaker herself?

A That is correct.

Q You read that to the audience?

A Yes, I read that to the audience.

Q So, this far I am correct?

A That is correct.

Q Did you at that meeting which you attended, make these remarks: "I don't know how many youngmen will refuse to register and be conscripted tomorrow, but I do know that

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the young man who shakes off the bloody paw of militarism, when it is laid on his shoulder, who refuses to be shipped to the trenches of Europe, I do know that young man is doing something that is of unquestionable value" --

X MR. BERKMAN: I object, this is not my speech.

THE COURT: It is perfectly proper. Objection overruled.

MR. BERKMAN: Objection withdrawn. X

A Read me the passage again.

Q If I make an error, just correct me: "I don't know how many young men will refuse to register and be conscripted tomorrow, but I do know that the young man who shakes off the bloody paw of militarism, when it is laid on his shoulder, who refuses to be shipped to the trenches of Europe, I do know that young man is doing something that is of unquestionable value, not only to himself, but to all humanity and to all posterity", and then there was applause.

A That passage is correct.

Q I might say, for your information, that I am reading from the transcript of the stenographer employed by the No Conscription League.

A That report is substantially correct.

Q How about this: "The young man who out of a keen sincerity" --

A Out of a clean.

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Q That is "keen" there. You say it is "clean"?

A Yes.

Q (reading) "The young man who out of a clean sincerity
in
and idealism, refuses to take arms in a cause/which he does
not believe, is stronger than any or all the governments
that ever existed."

A That is correct.

Q (reading) "Down with militarism". Is that correct?

A Correct.

Q (reading) "And down with the State that cannot maintain itself except by forced service". Is that correct?

A Correct.

Q Then, the first speaker that you introduce, I notice that you say, "The first speaker is a young man of conscriptable age".

A Correct.

Q And this speaker, Mr. Kane, the next speaker, according to your introduction, said in regard to registration, "Any attempt to violate the laws of true democracy should be crushed by the will of the people who love democracy, and tomorrow, on June 5th, you will have your opportunity to crush those laws that destroy democracy".

A I think he said that.

Q Mr. Kane did?

A I think so.

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Q Did Mr. Kane further say this: "I cannot allow any law to interfere with the freedom of my conscience".

A I think he said that.

Q Now, did you in reading Mother Schuster's speech, or rather did you state in speaking for her, "We will never allow our sons to be conscripted", or did she say that through you as a mouthpiece?

A I think she did.

Q In introducing Mr. Berkman, did you introduce him in these words: "A man who went to prison for fourteen years in the fight for liberty".

A I certainly did say that.

Q Now, Mr. Abbott, you have contributed from time to time to Miss Goldman's magazine, Mother Earth?

A I have.

Q Did I understand you to state on your direct examination that Miss Goldman did not advocate violence at any time?

A I don't know whether the question was put to me in that form.

Q Well, in your various speeches, with Miss Goldman, did you ever discuss this question?

A I have never known her to advocate violence.

Q In her magazine, Mother Earth, the July issue, 1914, did you contribute an article entitled "Leonard D. Abbott's Speech", or rather was your speech at Union Square

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published?

~~A Correct.~~

~~Q under the issue of --~~

~~MR. BERKMAN: What year is that?~~

~~MR. CONTENT: 1914.~~

~~MR. BERKMAN: This is 1917.~~

~~THE COURT: The testimony in the case thus far ad-
duced in behalf of the defendants is that at no time did
the defendant Goldman ever advocate violence, but to the
contrary.~~

~~MR. BERKMAN: Mr. Steffens suggested that.~~

~~THE COURT: There were other people. Now, the Gov-
ernment has a right, if such a thing exists, to bring out
any occasion when the contrary took place, if it ever did,
including any statements of the defendants, either in
writing or by word of mouth, or including any articles
written by any person in either of the magazines for
which the defendants are responsible.~~

Q Now, let me ask this preliminary question: In July, 1914, to your knowledge, was Miss Emma Goldman the publisher of Mother Earth?

A She was.

Q You knew that at that time?

A I did.

Q And at that time was Mr. Alexander Berkman the editor

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of Mother Earth?

A If I remember, at the date when that particular issue was published, Emma Goldman was thousands of miles away.

Q But she was the publisher?

A She was the publisher.

Q And Mr. Berkman was the editor?

A Yes.

Q Having an office at that time at 74 West 119th street, New York City?

A Correct.

Q Now, in that magazine, was your speech given in Union Square published?

A It was.

Q And your speech appears on page 140 -- I will show it to you.

~~MR. BERKMAN: I object.~~

A That is all right.

Q You gave this -- have you ever read it?

A I have. That is a correct transcript of my speech.

Q It was published in July, 1914, in Mother Earth?

A Yes.

Q And at that time Miss Goldman was the publisher and Mr. Berkman the editor?

A Yes.

~~BY THE COURT:~~

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Q Was Mr. Berkman here at that time?

A Mr. Berkman was here at that time.

Q At the time in Union Square when you made your speech?

A He was.

Q And he also made a speech on that occasion?

A Yes.

Q And you were on the platform there together?

A We were.

Q And some other speakers, including -- I think Mr. Berkman was the first speaker?

A As I remember, it was he.

Q And then you followed?

A Yes.

Q And then Miss Rebecca Edelsohn?

A Yes.

~~BY MR. CONTENT:~~

Q And in the meeting, you referred to a memorial meeting?

A Yes.

Q And then Miss Rebecca Edelsohn spoke?

A Yes.

Q And then Miss Elizabeth Gurley Flynn?

~~MR. BERKMAN: I don't know whether all these speeches go to the merits -- speeches for which we have been standing for the last twenty-five years -- are those all to be used as testimony for the purposes of this particular~~

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~~charge?~~

~~MR. CONTENT: I am bringing them down in the speeches to Mr. Berkman. I am only asking who the speakers were.~~

~~THE COURT: He is only identifying the publication, and asking Mr. Abbott whether these various persons spoke. As a matter of fact he is not referring to the subject matter at all.~~

~~MR. CONTENT: I am asking Mr. Abbott's recollection, that is all.~~

MR. BERKMAN: The defense admits it all.

Q According to your recollection -- I am only asking for that, did Miss Elizabeth Gurley Flynn speak on the same occasion?

A She did.

Q And a man named David Sullivan?

A He did.

Q And a Charles Robert Plunkett?

A He did.

Q So that on this occasion, in this issue of Mother Earth, everybody's speech was published?

A Yes.

Q And in this issue of Mother Earth your verbatim speech was published?

A Yes.

Q And I have shown it to you on page 140.

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A Yes.

Q Did you contribute an article to Mother Earth, on page 158, called "The Fight in Tarrytown and its Tragic Outcome"?

A I did.

Q Is it true that at this meeting a telegram from Emma Goldman was received, this meeting in Union Square?

A Yes.

Q Was Mr. ^{Pietro} ~~Betto~~ Allegra a speaker also, in the Italian language?

A He was.

Q ^{Sonie} ~~Samuel~~ Fraina?

A I think he was there. I don't remember him speaking.

~~Q Now, in your speech, Mr. Abbott, at which Mr. BERKMAN was present, and which is published in Emma Goldman's paper, did you say this, on page 143: "Whether Arthur Carron and his friends decided"~~

~~MR. BERKMAN: Pardon me one moment. Do you want to read speeches made by someone else in 1914?~~

~~MR. CONTENT: Mr. Abbott's speeches in 1914.~~

~~MR. BERKMAN: Well, the defense, will they be allowed for rebuttal to read as far ago as speeches made in 1714 on the subject?~~

~~MR. CONTENT: Yes.~~

~~MR. BERKMAN: 1714, the fight for free speech took place.~~

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THE COURT: This is 1914 to which reference is made. The point is this: As a matter of law, the Government is entitled to show any utterances that were published in either Mother Earth or The Blast in respect of any of the testimony in this case, but probably will not have occasion to go back to 1714, because it is fair to assume that the Mother Earth and The Blast were not published at that time. At present the District Attorney is quite within his rights.

Now the evidence is that Mr. Berkman was the editor of the paper at that time, and was in New York, and at the meeting in question; and the evidence is that Miss Goldman, being the publisher, was so many miles away. So far as we are concerned, that will raise a question as to whether or not, under the circumstances, she can in any way be held responsible for that publication.

MR. BERKMAN: I want to say right now that I hold myself responsible for every word published in Mother Earth, for all of it. I was its editor, responsible for every word, and I have no objection to anything being read here. I only want to be clear about my rights in this matter: What is the District Attorney permitted to read, and what will we be permitted to read?

THE COURT: I cannot tell, because I have not heard any question. He can read any expression of either of

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the defendants, or any expression published with their authority and consent, having to do with violence, registration or no conscription. Those three words -- I cannot think of anything else just now.

He cannot read any publications that have to do with other subjects that are not germane to this inquiry.

Now, let me ask you, before you read, is the transcript that you are going to ask the witness about, is that matter coming under one of the three heads?

MR. CONTENT: Yes, and religious violence.

THE COURT: Very well. You may read it.

MR. CONTENT: That is, it goes to the credibility of every witness who testified that the defendants never advocated violence.

MR. BERKMAN: I have no objection to your reading that, but I want to take an exception to the Court's ruling.

THE COURT: That is perfectly right. You are entitled to have your exception.

Q Now, in this article, I don't want to read the whole article, and the only point I want to reach is this in reference to violence -- did you say this: "Whether Arthur Caron and his friends decided to resort to violence, I do not know. But if they did, are they to be blamed? Let him that is without the spirit of resistance to tyranny and outrage, cast the first stone. If Caron decided to employ violence upon his enemies,

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and upon the enemies of his class, he did so only after he had exhausted peaceable methods."

A I certainly might have said that.

Q That is a correct transcript?

A Yes.

Q That was published in Mother Earth, according to your recollection?

A That was a correct transcript of what I said.

Q Now, in the same issue of Mother Earth, do you recall the publication of Rebecca Edelson's speech?

A Yes.

Q Were you present when she delivered the speech?

A Yes.

Q And Mr. Berkman?

A Yes.

Q In Union Square?

A Yes.

Q Do you recollect -- I ask for your recollection -- did Miss Edelson say this, with reference to Arthur Caron, Charles Bird and Carl Hanson, who were killed in an explosion? "But this we do know: whatever the cause of their death, whether they died at the hands of the enemy or because of the premature explosion of a bomb, they died in the interest of the working class. Therefore they are our comrades, no matter what the cause of their death."

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A According to my memory, that is a correct transcript.

Q I am only asking for your best recollection.

A Yes.

Q You appreciate I am reading from Mother Earth?

A Yes.

Q And if Mother Earth is wrong, I shall be glad to be corrected.

~~MR. BERKMAN: I object to that remark.~~

~~MR. CONTENT: I don't if Mr. Abbott's recollection, if it don't coincide with what I am reading, I will be glad to have him tell his recollection.~~

~~MR. BERKMAN: Mr. Abbott has read thousands of magazines since 1914, and he can't possibly remember.~~

~~THE COURT: He says he remembers.~~

~~THE WITNESS: I can't, of course, remember the actual verbiage, but the spirit of the remarks quoted seem to be correct and accurate.~~

~~MR. CONTENT: You understand I just want any recollection that you may have.~~

Q How about this: "If it was a premature explosion, then it is not our comrades that we must be ashamed of; it is society at large that should be ashamed, society that forces the best men and women to forfeit their lives in order to gain a few more liberties."

A So far as I remember, that is all right.

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Q Now, in another place, on the same page, 145, "I want to say that it's about time the working class came out frankly and openly and said, 'Yes, we believe in violence; we will use violence whenever it is necessary to use it. We are not afraid of what your kept press says; and when we are murdered and cannonaded, when you train your machine guns on us, we will retaliate with dynamite'". Is that according to your recollection?

A According to my memory she said something of that kind, yes.

Q And then after that she says, "And I hope that the day is not distant when the working class will say, 'We are not afraid of using violence. Every hour that we work in the factory we are kept there by violence, because we are forced to live under your rotten capitalistic system'?"

A Yes I think she said something of that kind.

Q And then a further remark: "But the real revolutionists are not afraid of the word violence, nor even of the word dynamite"?

A I should think she said something of that kind.

Q And this further remark -- this is the ending of her speech: "Don't be afraid of violence when the violence is on the side of the laboring class. The only thing is: Use it when you have the power, and when you have enough of it."

A I think she is quoted accurately.

Q Now, at that meeting, was there another speaker, Charles

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Robert Plunkett?

A Yes.

Q Do you know Mr. Plunkett?

A I do.

Q Do you remember at that meeting that he said this:

"I care not what position others may take; I have often from this platform and from other platforms in this City, declared that I believe in violence, and I have no reason to retract that statement now. I cannot answer for others, I can speak only for myself; as for me, I am for violence. Not only defensive violence, but offensive violence." Do you recall that?

A I do.

Q Is that substantially according to your recollection,—that is, that you are convinced of its correctness?

A Yes.

Q And this was about three years ago?

A July, 1914.

Q (reading) "I am not afraid of proclaiming the probability that our comrades met their death while preparing to strike a blow of terror at the heart of the enemy". Do you recollect that?

A I do.

MR. BERKMAN: The defense admits everything in Mother Earth.

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~~MR. CONTENT: All right, I am only reading some parts while he is on, because I realize he is entirely accurate.~~

Q (reading) "To oppression, to exploitation, to tyranny, to jails, clubs, guns, armies and navies, there is but one reply: Dynamite." That is according to your recollection?

A Oh, yes. May I comment on that?

Q Certainly.

A Plunkett and Miss Edelson at that time believed in violence, we believed in free speech, and it was their privilege to express what they felt and thought at that time.

Q According to Mr. Berkman, did he believe in violence at that time?

A Mr. Berkman's speech was recorded in the same issue.

~~Q Is it your recollection that they ever believed in violence, as you recollect?~~

~~MR. BERKMAN: I object.~~

~~THE COURT: Sustained.~~

~~Q Is it your recollection at that time that Mr. Berkman in his speeches advocated violence?~~

~~MR. BERKMAN: I object on the ground that his speech is right there.~~

~~MR. CONTENT: I withdraw the question.~~

~~MR. BERKMAN: Let the speech be read.~~

~~MR. CONTENT: I withdraw the question, and read this.~~

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Q Did Mr. Berkman, according to your recollection, say as follows: "It was the same speech --"

MISS GOLDMAN: I ask the Court whether I may at this stage make a small remark?

THE COURT: No, you can only make an objection.

MR. BERKMAN: Well, I object.

MR. CONTENT: On what ground?

MISS GOLDMAN: It is this, that the charge is advising people not to register, and it seems that here we are being tried for speeches made by somebody else in 1914. The speeches are being read into the testimony, and the Jurymen here hear these speeches. I am not clear myself, and don't expect anyone else to be clear, on what I am being tried for just now.

THE COURT: The question as to violence, so far as that is concerned, is only on the question of credibility. You are not being tried for violence, you are not being tried for any infraction of the law in that record. A man has been on the stand and has testified that he took down in stenographic notes certain expressions, and testimony has been introduced to the contrary, to the effect, briefly stated, that the defendant Emma Goldman has repeatedly stated that she is against violence. Now, the Government has the right, as I said before, to bring forward any writing on the question of credibility, which shows the contrary, if it does show it.

Now, the defendant Emma Goldman was the publisher of the

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paper in question, and the defendant Alexander Berkman was the editor, and he can only inquire as to what was recorded in the paper, not as to anything else. I have also explained, I think clearly, the question as to credibility, and when the matter comes, when the time comes, I will instruct the jury to the effect what I am saying now, among other things.

None of the defendants is now on trial for any act of violence, and this simply goes to the question of credibility.

MR. CONTENT: I would like to offer in evidence Government's Exhibit --

MISS GOLDMAN: One moment. Would it be a test of credibility, if it was shown at this trial, for instance, that one of the defendants made a remark which could be construed as contrary to her teachings, and ideas, -- could it be proved that she did make it, but it is in the statement of somebody else?

THE COURT: You are getting into the realm of argument now. I have endeavored to state the law clearly throughout this case, and I will, of course, and it will be properly stated to the jury when the time comes.

MISS GOLDMAN: I take exception to the ruling, and you understand that we do not object to anything

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being put in evidence.

THE COURT: In order to protect your interests, your objection should be made more formal.

Make it this way: That the defendant objects to this line of evidence as irrelevant and immaterial, and the Court overruled the objection, and to each defendant reserves an exception.

MR. CONTENT: May I just say this one thing now, on this testimony, that the defendants' evidence opened up first this line of testimony.

THE COURT: Obviously, else I would not have permitted you to go as far as you have.

MR. CONTENT: Now, I offer in evidence Government's Exhibit 55, for identification, which is a bundle of Mother Earths, testified to as having been found in Miss Goldman's office, that is to say, Mother Earths of July, 1914, found on the day of the arrest, this being one of them I hold in my hand.

THE COURT: Very good, it will be received.
(Marked in evidence as Government's Exhibit No. 55).

MR. CONTENT: I think it would relieve Mr. Abbott, if I just read Mr. Berkman's speech on that occasion.
(reading same to the jury)

~~MISS GOLDMAN: The District Attorney has chosen to only read a part of it.~~

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~~MR. CONTENT: I will read the whole thing. I thought perhaps I was acting improperly, otherwise I will be very glad to (continuing reading).~~

~~MISS GOLDMAN: Just a moment. You have left out something.~~

~~MR. CONTENT: What is it?~~

~~MISS GOLDMAN: You have left out the beginning of the first paragraph.~~

~~MR. CONTENT: I read that. However, I will read it again, if you do not object to my elocution. (continuing reading).~~

MR. CONTENT: I will read on page 157, the article of Alexander Berkman (reading same).

I also want to read Emma Goldman's telegram, at page 154, at that meeting at Union Square.

Q Are you an anarchist?

A It depends on what you mean. I am, if I can define it.

Q According to your definition?

A According to my definition, yes.

BY THE COURT:

Q I understood you to say in your direct examination, in answer to the questions of Miss Goldman, that at the second meeting, the one at Hunt's Point, you were surprised she had not taken a more extreme stand -- I think you said that, or words to that effect.

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MR. CONTENT: He said at both meetings.

THE COURT: I know that, but I am asking him as to Hunt's Point. Is my memory right on that?

A Yes, that is correct.

Q Now, you were at the meeting on May 9, the meeting of the No-Conscription League, when it was organized?

A I was.

Q I gather you were not at the meeting of May 23rd, at Miss Goldman's house?

A At the private meeting?

Q Yes.

A No.

Q Between the date of May 9, and the date of the Hunt's Point meeting, which was June 4, had you seen the defendants?

A Why, I had probably some conversations with them, no extended conversations.

Q You had some conversations?

A Yes, some conversations.

Q Well, what event, if any, or what conversations, if any, had taken place which led you to expect that at the Hunt's Point meeting there would be what you have characterized as a more extreme stand on the question of registration?

A That impression was simply based upon my knowledge

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of her deportment and character, not upon any conversation.

Q That is rather general -- I don't quite understand what you mean by that.

A Well, I mean there was nothing that she said to me, or I said to her, which would lead me to suppose she would oppose registration, but we were in a period of intense emotional excitement, and it was a moment when a person who is extreme may be led to make extreme statements, and it was in that sense I thought perhaps she might be more extreme than she was.

Q Now, that Hunt's Point meeting was held on the eve of registration day?

A It was.

Q Have you any idea how large an audience was present?

A Well, the hall was full. I do not know how many people the hall holds, but it was full.

Q Is it fair to say there were several thousands there?

A Several thousands, yes.

Q And were they men and women of all ages?

A Yes, they were.

Q When you looked around, did you see, or did it seem that there were some young men there of the so-called draft age, within that age?

A There were.

Q Many of them?

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A There must have been quite a few.

Q Were there persons strangers to you, as well as persons that were known?

A There certainly were.

Q Young men, among those, young men?

A Many young men I had never seen before.

Q Now, at the meeting of the 18th of May, were there at that meeting many young men?

A There were.

Q Would you say, from appearances, that they were between the ages provided for in the draft law?

A There must have been some young men of that age.

Q Did you see them?

A Yes.

Q Were there strangers to you also there?

A Many of them were strangers to me.

Q Were you present at any time when it was determined to have the meeting on the eve of registration?

A I don't think I was present at any outside of the meeting at the Mother Earth, but I knew in general that the meeting was to be held, and the first plan was to hold it in Madison Square Garden.

Q Were there any circulars given out in the meeting?

A I don't know anything about that personally, about the giving of circulars. I have no doubt some were given out.

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Q Did you see any given out?

A No, sir, I did not.

Q I only want you to give your personal knowledge.

A I have no direct personal knowledge on that.

~~THE COURT: You may examine.~~

~~MISS GOLDMAN: I just want to say one word. We would like to have Mr. Abbott return tomorrow morning for further examination. But at this point I wish to say that the prosecution, for reasons known to themselves, have brought in voluminous matters in evidence. May we bring in evidence on our own behalf, this matter which is called "The Psychology of Political Life".~~

~~THE COURT: Well, that may be brought in only on proper evidence. In other words, you can either put someone on the stand, in case it is a publication, or have you take the stand yourself. That is a matter entirely within your own judgment, and you are not required to take the stand. But you can bring that up, and I will put it in evidence. If you wish, you may have someone state that is an article which you hold in your hand, published by you, and you now offer it in evidence, and I will receive it in evidence, you may state that yourself.~~

~~MR. CONTENT: Let Mr. Abbott do it.~~

~~THE COURT: Certainly.~~

~~BY MISS GOLDMAN:~~

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Q. ~~You know this book (indicating)?~~

A. ~~I do, certainly.~~

~~THE COURT: I was only trying to point out to you, of course, the legal, technical method of putting a paper in evidence. The paper itself I shall admit, as soon as it is proved.~~

~~MISS GOLDMAN: Yes, as known, of course.~~
BY MISS GOLDMAN

Q Do you know this book?

A I have read it very carefully.

Q And it represents a series of essays on --

A The principles of anarchism.

Q From my point of view?

A Certainly.

Q Do you recognize what this one is?

A The psychology of political life.

MISS GOLDMAN: I would like to offer that in evidence.

THE COURT: Yes, it may be received.

MR. CONTENT: No objection.

MISS GOLDMAN: May I also at this point bring in evidence volumes of Mother Earth, containing my policy, or our policy on war, liberty, etc.

THE COURT: Certainly. Just hand them to the clerk, and he will mark them.

~~MISS GOLDMAN: I want to bring in the whole thing, as evidence, please.~~

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~~THE COURT: Well, I can only receive — let me see it.~~

MISS GOLDMAN: This is an essay on patriotism.

THE COURT: I can make it very simple. I will receive the whole book in evidence, and leave it to you to read such parts thereof as you may care to do. In other words, there may be some parts of it that are quite irrelevant. But everything that is in the book that is relevant, you may read, and the book for that purpose may be taken in evidence entirely.

(Marked in Evidence as Defendants' Exhibit B).

~~THE COURT: Now, if you have any other books, or any other articles which you want to put in evidence, if you will bring them in in the morning, I will introduce them in evidence, in the morning.~~

~~MISS GOLDMAN: That will be satisfactory.~~

~~MR. CONTENT: One question.~~

123 BY MR. CONTENT:

Q You said certain literature was distributed at the meeting?

A I heard it was.

Q You don't know of your own knowledge?

A No.

Q You did not see it yourself?

A I did not.

(Whereupon the trial was adjourned^{to} July 6, 1917, at 10 A.M.)

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New York, July 6, 1917, 10 A.M.

Trial resumed pursuant to adjournment.

P r e s e n t :

THE COURT, COUNSEL AND JURY, SAME AS BEFORE.

~~THE COURT: Do you want to introduce in evidence those publications, now, Miss Goldman?~~

~~MISS GOLDMAN: Your Honor, I will have to wait for the list, for the list to be made.~~

~~THE COURT: That is all right. It can be done any time. You can call your next witness.~~

~~MR. BERKMAN: We can put in some articles, most of them now and some later.~~

~~THE COURT: Yes, suit yourself.~~

~~MISS GOLDMAN: Mr. Berkman has made this list, and I will let him read it off (handing same to the Court).~~

~~MR. BERKMAN: Shall I read it off now?~~

~~THE COURT: Yes.~~

MR. BERKMAN: We put in evidence issue No. 3, volume No. 1, of The Blast, January 22nd, 1915.

(Marked in evidence as Defendants' Exhibit C).

THE COURT: Just a moment. I have a memorandum here. Do you want to put in the whole number, or only this article referred to?

MR. BERKMAN: The articles and papers of The Blast

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on page 4, "What is the matter with labor?" Page 4.

THE COURT: Very good. "Aspirations of The Blast".
and the article entitled, "What is the matter with labor?"

MR. BERKMAN: The first volume, Vol. 1, Issue 5,
February 12, 1915, page 4.

(Marked in evidence as Defendants' Exhibit D).

THE COURT: That is a very little one, No. 5.
What are the articles?

MR. BERKMAN: The page 4 articles.

THE COURT: The articles on page 4, entitled,

MR. BERKMAN: "The Madness of Jingoism" and "Prepare,
Prepare". The third article is "To Work Levels".

The first volume, issue 17, August 15, 1916, two
articles, one called "Down with the Anarchists", page 5,
and another one "Violence and Anarchism", page 4.

(Marked in evidence as Defendants Exhibit E).

✓ The Blast, volume 2, issue 51 June 1, 1917, page 3,
"Der Mutter".

MR. CONTENT: Your Honor, this whole article is in
evidence already. I don't think it is necessary to re-
operate. I did not read that story, but Mr. Berkman can
read it, but it is already Government's Exhibit in evi-
dence.

THE COURT: Very well. You need not give it a
separate number.

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X
~~MR. CONTENT: You can just read from that article~~
~~but the whole number is already in evidence in the Gov-~~
~~ernment's Exhibit. You can read whatever excerpts you~~
~~want.~~

MR. BERKMAN: ~~All right.~~ Mother Earth, Volume
9 and 10, if the Court please, I have several articles
marked there, but we can simply mark the whole thing.

THE COURT: Very good.

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MR. CONTENT: Volumes 9 and 10 -- I beg your pardon,
volumes 8 and 9.

THE COURT: Yes, 8 and 9, not 10.

MISS GOLDMAN: I am putting in 10 later.

THE COURT: Very well, just get it straight. Volumes
8 and 9 are offered by the defendant Berkman.

(Marked in evidence as Defendants Exhibit F).

MR. BERKMAN: Mother Earth, Volume 5, No. 10,
December, 1910, page 309: "Definitions".

(Marked in evidence as Defendants' Exhibit G).

~~MR. BERKMAN: I would like to be instructed as to~~
~~this from the New York American of Sunday, June 10, 1917.~~

~~THE COURT: Did you write it?~~

~~MR. BERKMAN: No, I wouldn't.~~

~~MR. CONTENT: You can put in the whole Book of Isaiah~~
~~from the Bible.~~

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MR. BERKMAN: Well, yesterday's stuff went in I
~~never wrote.~~

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~~MR. CONTENT: He was the editor.~~

~~THE COURT: Yes, but I explained to you that that came in because you were the editor. But there is enough literature in this case not to be concerned with the views of the New York American.~~

~~MR. BERKMAN: All right.~~

~~THE COURT: Now will you call your next witness.~~

~~MR. CONTENT: Mr. Abbott is still on the stand.~~

LEONARD D. ABBOTT, resumed the stand.

BY MR. BERKMAN:

Q Mr. Leonard D. Abbott, were you present at various meetings, public and private, where I was chairman?

A I was.

Q In years past, I mean?

A Certainly.

Q And in recent years?

A Yes, certainly.

Q When I am chairman, do I ever call for a vote on any question?

A I don't remember that you have.

Q Did you ever hear me call for a vote?

A No.

Q Do you think it would be consistent in me to call for a vote when I am chairman?

A No.

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Q ~~At the meeting~~ were you at the meeting at Forward Hall?

THE COURT: ~~What is the Forward Hall meeting,~~
~~the date?~~

MR. CONTENT: ~~June 14th.~~

MR. BERKMAN: ~~June 14th at Forward Hall.~~

A ~~No, I was not.~~

Q At a No-Conscription League meeting, is a question ever put formally to the meeting?

A I was never present at any meeting at which the minutes of the board were put in the form of a vote.

Q When I am chairman, was the question ever put to a vote?

A I have never been present at any meetings at which you as chairman put a formal vote.

Q Never since you know me?

A No.

Q How long have you known me?

A About twenty years.

Q Have I been chairman on many occasions?

A You have.

Q Now, Mr. Abbott, we heard yesterday about speeches made at Union Square, and mass meetings in 1914, and speeches referred to from that particular meeting. Can you tell us what was the occasion that caused us to call this meeting at Union Square -- was there a strike or any other affair of that kind?

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A The meeting at Union Square was the direct result of the strike of the miners in Colorado against the Rockefeller mines in Colorado, and it was also the direct result of the massacre of the working people and the burning alive of women and babies in the strikers' camp in Ludlow, Colorado.

Q That mass meeting was not an ordinary affair, was it?

A It was a very extraordinary affair.

Q Called under very unusual and special circumstances?

A It was called under the stress of intense indignation for what we regarded as the outrages upon the miners in Colorado.

Q Was that indignation felt throughout the country?

MR. CONTENT: Objected to.

THE COURT: Sustained.

MR. BERKMAN: Exception.

BY THE COURT:

Q In your answers, are you referring to the meeting at which the speeches were made to which reference was had yesterday?

A Yes, sir, I am referring to the speeches to which reference was made yesterday.

~~MR. BERKMAN: I can't remember the date, exactly.~~

~~MR. CONTENT: July, 1914.~~

~~THE WITNESS: In Union Square, New York.~~

BY MR. BERKMAN:

Q That particular mass meeting ^{with} at Union Square?

A That's right.

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THE COURT: Now, let me interrupt you in order to make that clear. The meeting apparently was held in memoriam, or something like that, on account of three men killed, Caron, Hanson and Berg. Now, who were they?

~~MR. BERKMAN: That was the same meeting.~~

~~BY THE COURT:~~

~~Q~~ Who were those three people?

A These young men were agitators and proponents in this fight against the Rockefellers at that time.

Q Under what circumstances did they die?

A They died in a bomb explosion in Lexington avenue.

Q In this City?

A In this City, yes.

Q I mean what happened --

A Well, these young men were killed in Lexington avenue in connection with a bomb explosion that was never entirely explained.

Q That is presumably a dynamite bomb?

A Yes.

Q Were they the makers of the thing?

A What happened was never known, or was never explained.

The thing was always more or less of a mystery.

Q Then there was an explosion of a dynamite bomb in Lexington avenue?

A Yes.

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Q Did these men live there at the place?

A These men lived there at the place.

Q The three men who were killed, lived at this place in Lexington avenue?

A They did.

Q The same dynamite bomb which exploded, was the one by which they were all killed?

A That is correct.

Q Was the building blown up?

A It was.

Q Anyone else killed?

A I think one other woman was killed.

Q And did these three men live together?

A I don't think so.

Q Well, they were associated?

A Yes.

Q And this meeting at which those speeches were heard or delivered,—

A Was as a result of the death of these men.

Q That was in memoriam of these men?

A That is correct.

Q There was nobody at the mines in Colorado killed there, as far as anybody knows?

A But these men were protestants against the Rockefellers, whom they held responsible for that crime.

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BY MR. BERKMAN:

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Q Mr. Abbott, do you remember whether the District Attorney's Department of New York City made an investigation of that affair?

A I remember they made a very lengthy investigation of the whole affair.

Q Of that explosion?

A Of that whole explosion.

Q Did they determine whether it was the agents of Rockefeller who caused the death of these men, or did they determine anything else in the matter?

A Well, as far as I know anything about the matter, it was left a mystery, was never clearly brought out, the facts in the matter. There were no further arrests made, no arrests in fact made in connection with it.

Q Were there any arrests made in connection with these explosions?

A No.

Q Was it not charged at this mass meeting in memoriam, of these explosions, that these men died as victims of Rockefeller?

A It was so.

Q Were any arrests made as a result of those speeches we heard yesterday?

A There were no arrests made.

Q Were representatives of the Police Department here,

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of the City Department, present at that meeting in Union Square?

A They certainly were.

Q Were they there in force?

A They certainly were.

Q Were there five approximately, or approximately a thousand?

A There were a great many, I can't tell how many.

Q Was there representation from the Detective Bureau?

A There was, certainly.

Q For the Mayor?

A Yes.

Q Were they near the platform?

A They were.

Q And they heard the speeches?

A Took them down.

Q Did they arrest anyone?

A They arrested nobody.

Q Neither on that occasion or subsequently?

A No further arrests, no arrests were made at that time.

Q Were any arrests in connection with that meeting made at any time?

A No.

Q Those speeches which were read here, and as they appeared in the Mother Earth paper, do you consider them, from your knowledge of Mother Earth, and from your knowledge of speeches--

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that is, that the Mother Earth articles --

Start

MR. CONTENT: I will concede, to help Mr. Berkman out, that the speeches from which I quoted to the jury, and some of which I read to the Court and jury, contained in the May issue of Mother Earth are verbatim remarks of the speeches in the Union Square demonstration,

~~MR. BERKMAN: July.~~

~~MR. CONTENT:~~ July, 1914, Government's Exhibit 55, are verbatim reports of the speeches at the Union Square demonstration; but, Mr. Berkman, some of the things I read were independent articles, but those things in Government's Exhibit No. 55 which are labeled "Alexander Berkman's opening address" and "Leonard Abbott's address" I will concede that they are the verbatim remarks of the speakers at the Union Square meeting.

That is correct, is it?

THE WITNESS: Correct.

Q Do you know whether the Post Office Department held up Mother Earth, or confiscated, or did anything, made any complaint with regard to Publishing these reports of the mass meeting?

~~MR. CONTENT: Objected to.~~

~~THE COURT: That is utterly immaterial, but you may answer.~~

A No, sir, the Post Office Department did not hold them

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up, or take any action in the matter.

Q Absolutely no action in the matter?

A No.

Q Do you remember whether there was any agitation in the East, and in New York especially, with regard to that Colorado strike of the miners?

A Why, the whole country was full of agitation.

Q It was a very exciting time?

A It was a crisis in the labor movement, which excited intense indignation all over the country.

Q And the mass meeting of July, 1914, in Union Square, took place after the massacre in Ludlow of the women and children?

A And was a direct result.

~~MR. CONTENT: One moment, that the alleged massacre.~~

~~THE WITNESS: Yes, and it was a direct result~~

Q Of the alleged massacre?

A Yes.

Q To your knowledge it was a massacre?

MR. CONTENT: Objected to.

Q Well, it is a matter of common knowledge?

A A matter of common knowledge, absolutely. Why, a monument has since been erected on that location.

MR. CONTENT: Objected to.

THE COURT: That is sustained.

Q Mr. Abbott, do you know whether I was ever interested

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in educational matters?

A I know you have been interested in many educational matters.

Q Do you know whether I ever had any connection with the Modern School of New York?

A I know you were one of the founders of the Modern School.

Q I was one of the founders of the Modern School?

A Yes.

Q What does that school stand for?

A Stands for the education of children along libertarian lines.

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Q Does that school stand for violence?

A It certainly does not stand for violence.

Q Is that school fashioned after the ideals of Francisco Ferrer?

A It is.

Q What was the attitude of Francisco Ferrer with regard to violence and education?

MR. CONTENT: I object to that. Francisco Ferrer is not on trial here.

MR. BERKMAN: The point is this that, --

MR. CONTENT: Wait a moment.

MR. BERKMAN: This has been borne out here. I was one of the original founders.

THE COURT: In view of the manner in which the point has been brought in, I will allow the witness to state the principles of Ferrer briefly.

A Well, Francisco Ferrer expressed himself definitely and specifically in regard to this question of violence in a statement that has been circulated all over the world, and as far as I can remember the exact words they state or rather Ferrer states that what violence gains for us today another act of violence may lose for us tomorrow, only that which is laid deep in the consciousness and mind of humanity is permanent.

Q Was that thought the foundation of the Ferrer School in this country?

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A That statement appears upon the walls of the Ferrer School in this country.

Q I mean the spirit and line of education as found here in the Ferrer School?

A Yes.

Q Is it based upon that thought of Ferrer?

A Yes.

Q And I was one of the original founders of that school?

A Yes.

BY JUROR NUMBER FOUR:

Q Do I understand that that is all based upon the laws of the United States, or within the laws of the United States?

A That it is within the laws.

Q That in this school the pupils are taught to obey the laws of the United States and to be within the laws of the United States?

A The pupils of this school, --

MR. BERKMAN: Pardon me, that question is too general, it seems to me.

BY MR. BERKMAN:

Q Did the Government of the City, or of the Federal Government interfere with the Ferrer School?

MR. CONTENT: Wait a moment.

126 THE COURT: That is not the question. The question is perfectly intelligible, and Mr. Abbott is an intelligent

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man, and can answer it.

A The pupils of that school are certainly encouraged to use their faculty of criticism and idealism in regard to existing laws.

BY JUROR NUMBER FOUR:

Q But provided they are within the laws?

A They are not taught specifically to break the laws, they are encouraged to do their own thinking, and their critical ideas and faculties to question and change unjust laws.

Q Then, they disregard the laws?

A There is certainly no such basis as that in the Ferrer School, they are taught to disregard the law, no.

BY THE COURT:

Q What he wants to know is this: Does the teaching at the Ferrer School in any manner involve disobedience of the law of this State and Government?

A No.

Q And you say in that school they are taught to encourage criticism?

A We encourage criticism of all existing institutions in cases of what we conceive to be, --

THE COURT: Very good. That is a privilege of every American citizen, but do you counsel in that school the breaking of the laws of the United States?

THE WITNESS: No.

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BY MR. BERKMAN:

Q Can you give us a brief summary of the principles of the Ferrer School?

A The Ferrer Schools are based upon much the same principles that Ferrer taught in Spain in bringing up children to be self-reliant idealistic critics of the existing order, in the interest of a better and a more just social order, a freer better and more just social order.

BY THE COURT:

Q When was that school founded?

A That school was founded after the execution of Francisco Ferrer in Spain seven years ago.

Q He was executed about seven years ago?

A Yes.

Q What was he executed for?

A He was executed on a charge of, — let me see, — the exact charge was that he was the fomenter and leader of a rebellion in Barcelona, — that was the charge on which he was executed; but, according to my best knowledge and belief, on false testimony, as has been shown repeatedly in books that have been published since then by William Archer, and other authors. We believe, a great many people believe that he was executed on false testimony; and William Archer, the English translator of Ibsen, one of the leading English scholars and

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literary men, has published a book in which this matter is gone into in hundreds of pages, and in which all the documents in the case were offered and criticised and examined.

Q Now, do I understand you correctly the Ferrer School which you say Mr. Berkman founded, I think, --

A (Interposing) He was one of the founders.

Q (Continuing) Of which he was one of the founders, was established seven years ago?

A That is correct.

Q That would make it around 1910, is that correct?

A That is correct, Ferrer was killed in 1909.

Q And I see in this volume of July, 1914, a notation, I think, that you were at that time the head of the school?

A That is correct.

Q It says, "The head of the Ferrer School"?

A That is correct.

Q And I gather from that, and from what you stated to us, that you are thoroughly familiar with its principles?

A I am.

Q Now, there was read yesterday, -- I think my attention was diverted -- this article called "A gauge of change", is that correct?

MR. CONTENT: By Alexander Berkman.

THE COURT: Yes, page 167 -- was that read yesterday?

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MR. CONTENT: Yes, I read that in its entirety.

THE COURT: Well, my attention was diverted, and I was not quite sure.

Q Now, in that article Mr. Berkman says, "Do you still ask me what the anarchists have accomplished in the last quarter of a century? Just this: They have taught the people that the violence is justified, aye, necessary in the defensive and offensive struggle of labor against capital". Now, is that in accordance with the Ferrer School?

A Well, that is a statement of an abstract principle; some believe under some conditions that violence is justifiable.

Q You don't answer the question. I have read you a few simple English words.

A Well, my reply to your Honor is this: That there is nothing of that kind incorporated in the principles of the Ferrer School.

Q Well, is that in accordance with the principles or contrary to the principles, or what, of the Ferrer School?

A I would say it was neither contrary nor in accordance with the principles of the Ferrer School. The Ferrer School has never declared itself on that particular point, as I recall.

12¹¹ Q So that membership in the Ferrer School and the founding of the Ferrer School don't necessarily require a person to take the position either way then, on that subject?

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A No, no.

Q And that is, the Ferrer School leaves each person free to do what he pleases?

A It leaves them free to form their own conclusions on this and other matters of that kind.

Q And if a person advocated violence, he would not necessarily be contrary to the principles of the Ferrer School?

A He would not be in accord nor necessarily contrary to the principles.

Q Tell us what it is the pupils of the Ferrer School are taught, -- what is its principle?

A It is a school, an idealistic school formed to promote higher social ideals, to encourage children to adopt higher social ideals.

Q I know, but what does it mean? There are a great many standards that might be covered by the word "ideal" that is largely the point of view of the persons who approve it. All these words you have spoken are words of broad and largely indefinable character.

A Well, we conceive this school is a school which is encouraging children to adopt social ideals that are superior to the present social ideals, and they are as clear as crystal.

Q What are they?

A Ideals based upon the, --

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Q I want you to give us something definite.

A Well, for instance, we stand in sympathy with the labor movement and its efforts to uproot the present capitalistic system and replace it by furnishing a coöperative system in which workingmen may control their own conditions, instead of being, as at the present time exploited by the capitalists.

Q Does that school -- I am only inquiring because the other side opened it -- Mr. Berkman, does that school advocate the abolition of Government?

A It advocates the education of humanity to a place where they will be able to get along without government.

Q Well, is it fair to say that it advocates the abolition of all government?

A In an ideal sense, yes.

Q And that is what is being taught to the children that go to this school?

A The children will be encouraged to be self-reliant, so that in coming generations you may expect the people finally to get along without government.

Q With a view that the ultimate ideal will be to wipe out all government?

A We do not teach dogmatically any ideals in the school, but encourage the children to be critics of the existing system and to work for a system that will be freer, and

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finally realize a condition in which government would no
longer exist, as we understand it today. 667

Q Then, putting it briefly, the children are encouraged to form ideas looking toward the abolition of government?

A In an ideal sense, yes.

Q And of course, that includes the Government of the United States, with all other governments?

A Of course.

BY MR. BERKMAN:

Q Does the system of education in the Ferrer School try to develop in the children habits of self-government?

A Positively.

Q And self-discipline?

A Positively.

Q So that when you say in an ideal sense, you mean that the children are trained to be able to be their own rulers, so to speak, to be independent in spirit and independent in the sense in which Ralph Waldo Emerson enunciates the principle of self-reliance in his essay.

Q And you would consider that the children trained in this manner would make the most ideal men and women?

A I think this training would tend to produce ideal human beings.

Q Was the system of education in the Ferrer School as similar to or patterned on the free school, of thought which

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Leo Tolstoi had in Russia?

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A It was.

BY THE COURT:

Q Let me ask you so that we can get this point clear:
On page 139 of the July, 1914 Mother Earth--

MR. CONTENT: Exhibit 55.

Q (Continuing) Exhibit 55, under the heading:

"Alexander Berkman's opening address" occurs this paragraph:
"I want to go on record here today as saying that I prefer to believe--"

~~MR. BERKMAN: Pardon me. May I ask the Court~~

~~whether I may not continue the examination of Mr.~~

~~Abbott, because I lose the thread of my thought?~~

~~THE COURT: It is a very old custom for the Court~~

~~to ask questions when it deems proper. "I want to go
on record here today as saying that I prefer to believe~~

~~that our comrades were not victims, in the sense of
having been killed as the result of a conspiracy of the
enemy. I want to go on record as saying that I hope
our comrades had themselves prepared the bomb, in-
tending to use it upon the enemy. Why do I say this?~~

~~Because I believe and firmly believe that the oppres-
sion of labor in this country, the persecution of the
radical elements especially, has reached a point where
nothing but determined resistance will do any good.~~

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And I believe with all my heart in resistance to tyranny on every and all occasions." Is there anything in the Ferrer School one way or the other about preparing bombs to use on what the speaker here speaks of as the enemy?

THE WITNESS: Positively not. But if I may call your attention to the quotation, those words are a direct quotation from Thomas Jefferson. Thomas Jefferson said, "Resistance to tyranny is obedience to God".

Q You have no recollection that Thomas Jefferson talked about bombs, have you?

A No, I have not.

BY MR. BERKMAN:

Q Is it not a fact that the very next sentence which the Court did not read explains the meaning of the preceding paragraph, and I will read it: "It was a great American who said that the tree of liberty must be watered now and then by the blood of tyrants"?

A That, I think, is also a statement of Thomas Jefferson's.

Q That "Great American" has reference to Thomas Jefferson?

A That is correct.

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Q And when the word "Enemies" is referred to in this sentence, was that in connection with the struggle of labor and capital in Colorado?

A It was.

Q Can that struggle logically be referred to as a war?

A A class war.

Q Did not all the newspapers refer to the matter in Colorado as a war?

A They called it practically a civil war in Colorado at that time.

Q And therefore this article refers to conditions of practical civil war in Colorado?

A Exactly so.

Q Now, to go back to the system of tutoring in the Ferrer School, you are very familiar with the system of teaching that prevailed in Count Leo Tolstol's school in Russia?

A I am.

Q You are familiar with that school, that it is opposed to the tyranny of the Czar?

A Yes.

Q And that it was forbidden by the Czar's Government?

A Yes.

Q Now, is it not a fact that the Ferrer School in New

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York was run along lines similar to Count Tolsti's school in Russia?

~~MR. CONTENT: He has already answered that.~~

A It was, and is based on Count Leo Tolsti's school, libertarian principles of education.

BY MISS GOLDMAN:

Q Since the Ferrer School has been taken up for discussion, I want to ask you whether or not you have any knowledge of the fact that Ferrer's innocence was proven in the Spanish Cabinet since his death.

MR. CONTENT: Now, I object to that. Ferrer is not on trial here.

~~MISS GOLDMAN: It is perfectly material.~~

~~MR. CONTENT: Will you let me address the Court?~~

~~MISS GOLDMAN: Certainly.~~

~~MR. CONTENT: Mr. Abbott stated in his direct examination that he felt that Ferrer was convicted on perjurious evidence, and I did not object to that.~~

~~MISS GOLDMAN: Just one moment. I would not have thought of bringing up Ferrer, except in this sense.~~

~~THE COURT: I think it can be covered in this way:~~

BY THE COURT:

Q Of course, naturally, you were not in Spain at the time of his trial?

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A No, sir, I was not.

Q And I understood you to say before that your own personal view of the matter was that Ferrer was innocent of the crime for which he was executed?

A Exactly so.

~~THE COURT: Now, I allowed that merely because I thought it was only fair to let that in, in view of my question as to what happened as to Ferrer. Now, whether the man was innocent or not, and wrongfully executed, is something nobody can prove by hearsay. I have permitted him to say --~~

~~THE WITNESS: That is part of the Government record.~~

~~MR. CONTENT: I did not object to his giving his opinion, but I do object to hearsay testimony.~~

~~THE WITNESS: It just refers to the matter of the Court procedure in Spain, which has an important bearing on the matter.~~

BY MISS GOLDMAN:

Q May we ask that Mr. Abbott explain to you.

A It is an important matter connected with court procedure. After Ferrer was arrested and executed, his property was confiscated by the Government, his books, his school books, and so on, were confiscated by the Government. An appeal was thereupon taken by his lawyers to the Government

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on the ground that he had been unjustly executed, and the charges against him were false, and the Government recognized the truth of that statement, to the extent that his property was returned to his heirs.

~~MR. CONTENT: I object on the ground that this is hearsay.~~

~~THE COURT: I know it is.~~

~~THE WITNESS: (Continuing) But this is a matter of public record.~~

~~MR. CONTENT: But, in the first place, the laws of another country have to be proved like any other fact.~~

~~THE COURT: I quite agree with you, but I don't want to exclude it for the reason that as long as the other side was gone into —~~

~~MR. CONTENT: That is true, but I don't want the jury to understand that Mr. Ferrer is on trial.~~

~~THE WITNESS: This is a matter of public record, that his property was returned to him on the ground that it had not been proved that he was himself the leader and fomenter of the disturbance.~~

~~THE COURT: That it was returned to his heirs.~~

~~THE WITNESS: To his heirs, yes, sir.~~

~~MISS GOLDMAN: May I say here that all the material that has been thrashed out and which is really irrelevant, has been dragged in by the prosecution, and not by us.~~

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THE COURT: That is not a correct statement. Let us have no misunderstanding about this. All this testimony as to the meeting of July, 1914 was admiss^{it}ible because the defendants laid the basis for/in asking various witnesses as to whether violence had been advocated or not. Now, I don't want to waste any time, but in order to make the whole thing legally clear I will state it. Mr. Randolph testified that the defendant Emma Goldman used certain expressions in regard to violence in a public meeting. If the cross-examination on that record had been confined to the public meeting, then that would have been the sole point, and the jury would have had to determine who were telling the truth about the public meeting, whether Randolph was telling the truth, or were the other people telling the truth. That, of course, is the issue upon that point which the jury will have to consider when the matter comes to them. The defendants, however, went further than that, and sought to establish that in respect, at least, of the defendant Emma Goldman, that she had never advocated violence. The Government thereupon had the right to test the credibility of the witnesses in that regard by producing any articles which were published in the paper of which the same defendant was the owner and of which the other defendant was the editor.

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Now, it appears from the testimony that a large bundle of these were found on the premises of Mother Earth, when the arrest was made. It also appears thus far that the defendant Emma Goldman was many miles away when this edition was put out. Now, all those facts, both pro and con, will be submitted to the jury for them to determine the ultimate point as to whether that expression was used or not, and that expression is only applicable in the case because of two points, and that is, whether there was an expression used in connection with the advice not to register, and secondly whether a — on the question of credibility — on the credibility of the Randolph testimony which is attacked by the defendants and supported by the Government — I mean urged by the Government, is a better word. On the question of credibility, if the jury should think Randolph was right about that, then they would probably, they would have the right to think that he reported the whole speech correctly. If the jury should think that Randolph is wrong about that, then they could make up their minds as to whether he reported the other part of the speech correctly. Now, when the law goes to the jury, these things will be made as clear as such ability as I possess can make them. There was no reference to Ferrer until the defendant Berkman opened up the subject.

MR. CONTENT: Over my objection.

& THE COURT: Over the Government's objection. I have X

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allowed many things. Many of the questions of the defendants so that there should not be, from my point of view at least, any feeling that certain lines of inquiry were excluded, which I might have excluded if the defendants had been represented by counsel.

MR. CONTENT: Will your Honor also inform Miss Goldman that the objections I have taken are legal objections, what based on, I believe to be the rules of evidence.

THE COURT: A number of the objections which I have overruled have been legally correct, but I have not overruled them in order that any reasonable relevant theory whether strictly admissible or not should be presented in the case by the defendants.

MISS GOLDMAN: Your Honor, since the witnesses for the prosecution quoted my saying, "I believe in violence and we will use violence" it is absolutely imperative for us, and for myself especially, to bring witnesses and point out to the jury this —

THE COURT: Miss Goldman, let me interrupt to say that nothing I have said was intended to convey the idea — and I am quite sure the jury has not misunderstood me — that there was any lack of propriety in your producing all the evidence that you desired to show that your habit for years, that your theory on this case was either not to counsel violence, or affirmatively to counsel that people

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X should not, that there should not be violence -- that was a perfectly proper line, and you were entitled to introduce it, and I have permitted it.

MISS GODDMAN: As I have not finished the sentence, I do not think your Honor knows what I was going to say for your consideration. I wish to bring out the fact to the jurors that as long as I was accused of having said, "We believe in violence and we will use violence" I must absolutely be allowed to bring out through my witnesses and our witnesses whether interpreting or explaining an act of violence is the same as advocating an act of violence.

MR. CONTENT: That is a question for the jury.

THE COURT: No, the question there is this: I am willing to give you, and I think I have stated that many times -- what from the lawyers' standpoint is rather a liberal range. Now, don't misunderstand me, -- not as a favor, or in the way of courtesy, but solely for the purpose of having the facts as fully and clearly before this jury as they can be. Now, the immemorial rule in the courts, in the American courts, in regard to language is this: The jury consists of twelve men, selected from all walks of life. They, and they only, as distinguished from the witnesses, construe the meaning of language. Now, twelve men may take up a newspaper this morning, and there might be some dif-

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ferences of opinion as to what was meant by certain words; but we are not permitted to put a man on the stand and ask him what he thought about these things. He is not a judge. Nor, on the other hand, is this subject one which requires expert testimony. If, for instance, we had a complex chemical question before us, or something of that sort, then you could put on experts to explain the meaning of the chemical terms. But in all these writings that have been introduced in evidence, language perfectly plain and understandable has been used, and what Mr. Abbott, or Mr. Jones or Mr. Smith, thinks of the words, is a matter of no consequence.

MISS GOLDMAN: Your Honor, I again must say, it is not my intention, and was not, during the entire trial, if I formulated a question wrongly, it is because of my inexperience in legal matters. I did not intend Mr. Abbott to give his opinion, or any other person to give the jury his opinion. But what I do want, if I ask a question, is this: I am accused, for having said, "I believe in violence and I will use violence". Mr. Abbott was at the meeting, and he may answer yes or no, you have or you have not said that.

MR. CONTENT: He has already answered that.

MISS GOLDMAN: Just one moment, please, Mr. Content.

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X Or if the evidence is given on our own account, to ask Mr. Abbott whether he has read an article that I wrote on violence, -- it seems to me that the defendants ought to have a right to ask did I ever advocate or explain violence. I ought to have that right. Ought I not to have that right?

THE COURT: No, the article speaks for itself.

That was an article of yours which has not yet been read to the jury. Now, if that is read to the jury, the jury determines what that means, not Mr. Abbott, but merely put for the purpose of this question.

MR. CONTENT: And Mr. Abbott has already answered that Miss Goldman did not use those words, and several other witnesses testified to the same effect.

MISS GOLDMAN: Well, we can't bring a thousand people to say the same thing. However, I think we are prolonging the trial, and I really don't want that, for we are terribly tired, and I am sure the jury is as well as everybody else. ✓

Q I want to ask you, Mr. Abbott, since the question of the Modern school came up, and I am still connected with it, -- I don't want to have the jury misunderstand anything pertaining to it -- now, Mr. Abbott, is it not a fact that the principle of the Ferrer School consists primarily in one thing -- your Honor asked that, and it has not been answered, -- namely to bring out all the latent qualities in the child?

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A That is a correct definition.

Q Is it not a fact that the Ferrer School, to give a definite definition has to be differentiated from all other schools in this: That it only wants to bring out things and not knock in things?

A That is certainly correct.

Q And is it not in that sense in harmony with all modern education the world over?

~~MR. CONTENT: Objected to.~~

~~THE COURT: Allowed.~~

A I should say it was in harmony with the best educational thought of today.

~~MISS GOLDMAN: That is all.~~

RE-CROSS-EXAMINATION BY MR. CONTENT:

Q Now, Mr. Abbott, you have spoken of the fact that practically a civil war existed in Colorado.

A Yes.

Q That a state of belligerency existed which was not recognized by the Government, was it?

A No, it was not recognized by the Government.

Q And you also mentioned that in some of the speeches of Mr. Berkman at Union Square there were quotations from Thomas Jefferson?

A Yes, that is correct.

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Q It is your understanding, however, that Thomas Jefferson was largely responsible for the form of government under which we live today?

A I understand that he is largely responsible for the form of government we have in this country at present.

Q And he was an advocate of law and order and government?

A Why, he made a statement that the tree of liberty must be watered by the blood of tyrants and the blood of martyrs, I think he said.

Q But you don't mean that Thomas Jefferson, you don't mean to indicate that Thomas Jefferson was a believer in no government?

A Jefferson himself was a believer in revolution, it seems to me.

Q What is Miss Goldman's connection with the Ferrer School?

A She was one of the founders of the school.

Q Somewhat similar to Mr. Berkman?

A Quite so.

Q And her position in the school, was that somewhat similar to his?

A She was one of the founders of the Ferrer School.

Q Well, answer my question?

A Her position and relation to the school was somewhat similar to Mr. Berkman's.

179 Q And is it taught in the Ferrer School, is it?

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if a particular law or statute is opposed to the ideas or beliefs of a great many members, are they at liberty to disregard that law?

A No such principle has been taught, as that, to my knowledge, in the Ferrer School. I think a more definite statement of that would be entirely out of sympathy with the ideals of the Ferrer School.

Q Do you mean that they teach the children to disregard the law?

A I mean our attitude toward the child would be for him to take his own position in regard to the laws.

Q Then, according to the teachings a child might arrive, however, at a conclusion that a particular law being offensive to his ideals, he could disregard it, although it was the law?

A If he was prepared to take the consequences. That is up to the child, that he must be prepared to take the consequences of his actions.

Q If they are prepared to take the consequences, they are liberty to feel that they may disregard the specific statutes of the United States?

A If they are prepared to act and take the consequences of their acts, if they are prepared to act according to their consciences, and take the responsibilities for their acts, that would not be out of harmony with the teachings of the

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Ferrer School.

Q Now, as a matter of fact, the actual charge on which Ferrer was convicted was technically high treason?

A He was convicted as the leader of a general strike in Barcelona.

~~MR. BERKMAN: All that was ruled out.~~

~~MR. CONTENT: No.~~

~~MR. BERKMAN: If the Court rules the defendant cannot ask questions about Ferrer in another trial by the Supreme Court in Spain, why can't the District Attorney.~~

~~MR. CONTENT: Your Honor overruled my objection.~~

~~MR. BERKMAN: I am ready to have the whole trial of Ferrer repeated here.~~

~~THE COURT: You did not hear what I said.~~

~~MR. CONTENT: Your Honor overruled me.~~

~~THE COURT: I ruled in a lot of questions, but I think we have had about as much of Ferrer as we want.~~

~~THE WITNESS: I want to explain the last question.~~

Q What was the technical charge?

A The charge against Ferrer was that he was the head and chief of a general strike that was called at Barcelona, Spain, as an anti-militaristic protest against war with Spain and Morocco, in 1909, — a general strike arising out of a militaris-

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tic protest of workingmen against war with Morocco in 1909.

BY MR. CONTENT:

Q Wasn't he indicted for treason?

A He was not indicted for treason. He was indicted as the head and chief of the general strike.

~~MR. CONTENT: That is all.~~

~~MR. BERKMAN: Just one question.~~

BY MR. BERKMAN:

Q Is it not an historical act that the Supreme Court of Spain reversed the decision against Ferrer, originally passed?

A Reversed the decision, and as I have said, returned to him his property on the ground that this charge had not been proven.

~~THE COURT: Returned it to his heirs.~~

~~THE WITNESS: Exactly, because he was dead.~~

Q And is it not a fact that William Archer, the greatest critic and literary man of England, was sent by McClure's to Spain to investigate the whole situation, and that he declared the whole thing to have been a conspiracy to kill Ferrer?

A Two articles on Ferrer, in McClure's Magazine, by William Archer, show that Ferrer was killed on false evidence.

~~MR. BERKMAN: That is all.~~

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A N N A B A R O N , a witness called on behalf of
the defendants, being first duly sworn, testified as
follows:

DIRECT EXAMINATION BY MISS GOLDMAN:

Q Have you known me for some time?

A I have.

Q Have you worked in the office of Mother Earth?

A I have.

Q Did you say in what capacity?

A Stenographer, and secretary of Mother Earth?

Q How long have you been employed in Mother Earth?

A About five years.

Q During that length of time did you have an opportunity
to copy my manuscript, different manuscripts?

A All the time, most of the time.

Q Did you also, when I was on tour, receive many letters
in my handwriting?

A Almost every day.

Q Did you not, or did you, copy the manuscript for the
book known as the Social Significance of the Modern Drama?

A I copied all of that manuscript.

Q And when you received letters written while I was on
tour, can you state how they were dated?

A Most of them, they were dated on the road, on the train.

Q Written on the train?

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A Written on the train.

Q Now, having worked with me nearly five years, having received letters in pencil, and written with pen, and also the manuscript you have copied, you are pretty familiar with my handwriting, are you not?

A I am.

Q Will you please tell the Court whether you found it easy to read my handwriting?

A I always found great difficulty in reading your handwriting, and even after working five years, I still find difficulty in reading your letters and manuscript.

Q Then you can say that if a manuscript written in quiet and comfort, is difficult to decipher, letters written on the train would not be very easy to decipher?

A Positively.

~~MISS GOLDMAN: That is all.~~

~~MR. BERKMAN: Miss Goldman, in asking Miss Baron whether she copied her manuscripts, forgot to ask her for what purpose.~~

BY MR. BERKMAN:

Q Those copies were sent to the printer, weren't they?

A They were. Miss Goldman's handwriting could never be made out by the printer, so everything had to be typewritten that Miss Goldman wrote.

MR. CONTENT: No questions.

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~~THE COURT: The next witness, Mr. Berkman.~~

~~MR. BERKMAN: May we also read something to the Court
and jury now?~~

~~THE COURT: Yes.~~

MR. BERKMAN: I would like to readin evidence here
The Blast, Volume 1, No. 17, August 15, 1916.

MR. CONTENT: That is Defendants' Exhibit E.

MR. BERKMAN: I shall read the most important excerpts,
so as not to bore the jury, ^{it} is rather a lengthy article.
The article is called "Down with the Anarchists", and
appears in The Blast of last year, at San Francisco.
(reading same)

In the same exhibit, another article on "Violence and
Anarchism" by Alexander Berkman, written a year ago, before
we had any idea of this trial, and therefore not written
for this purpose. (reading same)

~~MR. CONTENT: Your Honor, I would like to read a part
of this same article on violence.~~

~~MR. BERKMAN: Pardon me. The defense is putting in
its case now.~~

~~MR. CONTENT: I only would like to read something.~~

~~THE COURT: I will let you read it later.~~

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J A C O B A B R A M S , a witness called on behalf of
the defendants, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BERKMAN:

Q Mr. Abrams, what is your business?

A I am an organizer of the International Brotherhood of
Bookbinders, Local Trade.

Q Have you known me long?

A For the last year.

Q Well, I don't know whether you knew I lived in Califor-
nia, when I lived there?

A Yes, I knew when you came from California, to the United
Hebrew Trades.

Q Where did you first meet me in New York?

A At the United Hebrew Trades, 175 East Broadway.

Q At a meeting of that association?

A Yes.

~~Q What is that association?~~

~~A It consists of twenty-three locals of different industries.~~

~~Q The United Hebrew Trades is the Central Labor Organization
of all the Jewish workers of New York?~~

~~A That's right.~~

~~Q And has branches all over the country?~~

~~A Yes, has branches in different parts of the state.~~

~~Q You met me, addressing the delegates of the union?~~

~~A Yes, exactly.~~

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Q And that was the first time I ever met you?

A Yes, exactly.

Q Now, on what subject did I speak?

A On labor unions in San Francisco.

Q Did I speak of the labor unions in California, and especially San Francisco?

A Yes.

Q Did I ask the United Hebrew Trades, as delegates of various labor organizations, to give us their cooperation?

A Yes.

Q Did I talk to them about violence?

A Oh, no.

Q Did I speak to them about the solidarity of labor and cooperation?

A Exactly.

Q About the improving of labor conditions?

A Exactly.

Q Did the United Hebrew Trades vote, or pass some resolution after I spoke to them?

A Yes, they decided to authorize the members to call a conference of the different unions, to send their delegates, and raise enough publicity and money for the defense in San Francisco.

Q Do you know whether that was a unanimous decision, that they decided to raise that support?

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A It was a unanimous decision.

Q Were you at the Harlem River Casino meeting of May 18?

A Yes.

Q Were you anywhere near the platform?

A I was on the platform.

Q Could you hear the speeches distinctly?

A Exactly.

Q Where was I sitting on the platform before I spoke?

A You were sitting at the left side, fronting the public, at the left side.

Q Do you know whether there were any people around me?

A Yes.

Q Did you see a bugler come up to speak to me?

A No.

Q No soldier?

A No, no soldiers were allowed on the stage. I was on the committee then.

Q Was the stage door guarded against strangers entering?

A Exactly.

Q Did you hear Miss Goldman speak on that occasion?

A Yes.

Q Did Miss Goldman say, "We believe in violence and we will use violence"?

A Nothing of that kind.

Q You are positive she did not say that?

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A Absolutely.

Q Did she say anything that could be construed as that?

A No, none.

Q Did you hear Alexander Berkman?

A Yes, I did.

Q Did you hear him say anything about violence?

A No.

Q Did you hear any of the other speakers say anything about violence?

A Nothing of that sort.

Q Did you hear Miss Goldman tell the people not to register?

A No, I did not hear about registration.

Q Did you hear Alexander Berkman tell the people not to register?

A No, I did not hear that.

Q Did you notice some commotion during that meeting?

A Yes.

Q I want to ask you, do you remember whether there was quite a number of speakers scheduled to speak at that meeting?

A Yes.

Q Did all of them speak?

A No.

Q Why?

A On account of the disturbance of the soldiers they kept

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up a disturbance, and Miss Emma Goldman appealed to the soldiers not to have a disturbance. Then I remember she told the soldiers that regular soldiers were expected to have intelligence enough not to have any disturbance.

Q The meeting, to your knowledge, was closed before the regular time?

A Exactly.

Q All the speeches were not put on?

A No.

Q Did you hear Miss Goldman or myself, or rather did you hear Mr. Berkman address an appeal to the soldiers to please behave themselves?

A Yes, exactly.

Q Were you in New York about four or five years ago?

A Yes.

Q Do you remember whether in those years there was an organization here called the Anti-Militaristic League?

A Yes, I do, that was in the time of the Mexican affair.

13 Q Do you remember who was secretary of that organization?

A I don't remember exactly the secretary.

Q Do you remember whether that organization called a mass meeting at Union Square?

A Yes, that was in the Summer time.

Q In 1914?

A Yes, in the Summer time.

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Q Do you remember whether I was a speaker?

A Yes, you were.

Q One of the speakers?

A Yes.

Q And that was in 1914?

A Yes.

Q You heard me at that time agitate against war?

A Yes, I knew who you were from hearing you talking, and mentioning your name, Alexander Berkman.

Q Did you know that the principles of the anti-militaristic league in 1914, were opposed to war?

A Yes, it was opposed to war.

Q Opposed to all war, or some war?

A To all war.

Q And you knew I was one of the speakers at that mass meeting in 1914?

A Yes.

Q If you therefore should hear I was opposed to fighting you would not be very much surprised?

A Oh, no.

Q Were you present at the conference meetings of the defendants, and the No-Conscription League on May 23rd?

A Yes, I was there.

Q Were you at Miss Goldman's apartments on that meeting?

A Yes, 139th street.

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Q Do you know whether that was not originally called for the office?

A Of Mother Earth.

Q Did you go to the Mother Earth office?

A Yes, I went.

Q And were you asked to go somewhere else?

A Yes, it was telephoned you could not come there on account of your injury, and we should go over there, and so we went there.

Q Do you remember whether it was mentioned that I called up?

A Yes, I was called downstairs and heard you call.

Q The meeting was originally for the Mother Earth office?

A Yes.

Q And word was sent it would have to take place at Miss Goldman's apartments, because I could not walk?

A Exactly.

Q Did you go to her apartment on that occasion -- no, that was the first time-- I mean did you go there?

A Yes.

Q At the Mother Earth office you were informed to go to Miss Goldman's?

A Yes.

THE COURT: He said that two or three times.

Q Was Mr. Berkman there?

A Yes.

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Q Miss Goldman?

A No.

Q Was it explained why she was absent?

A Yes, that Miss Fitzgerald --

Q Just yes or no.

A Miss Goldman was not there.

~~Q Did the meeting consider anything important?~~

~~A Well, yes, carried some importance.~~

~~Q Did you expect, at the meeting which would be held in her apartment, Miss Goldman's apartment, that she would be present?~~

~~MR. CONTENT: Well, I object. What is the use -- the man wants to explain.~~

BY THE COURT:

Q Was Miss Goldman's absence explained?

A Yes, it was.

BY MR. BERKMAN:

Q How was it explained?

A Miss Fitzgerald read a statement, or a letter.

Q Was it stated where Miss Goldman was?

A Yes, it was.

Q What was said about that?

A Yes, it was this way: she read a letter from Miss Goldman, Miss Goldman went away to Springfield, I think to some lecture, I don't know exactly, and then she received the letter that Miss Goldman regrets her absence, but she, --

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Q Was the statement read from Miss Goldman?

A Yes, that was in the statement from Miss Goldman, from Springfield, Massachusetts.

Q So far as you remember the gist of the statement, did Miss Goldman take the position --

THE COURT: No, don't lead. Just say, "state the substance of the statement".

Q State the substance of the statement.

A The statement from Miss Emma Goldman said that she, in her letter that she regrets her absence, but that she knew this meeting is arranged for the purpose of calling a Mothers' Mass Meeting in Madison Square, and that in the meantime she directs, no matter who is chairman there, to talk about conscription, but the No-Conscription League shall not discuss anything on registration, and we shall not try to agitate for or against registration, and that it will be absolute; but she expects of every member of the league, that he shall act that way, as she believes in the absolute individual liberty, and we shall not urge anybody to do or not to do.

Q Did you understand her statement to be an expression of her own position, or --

A Of her own position.

Q Was it decided --

A Was discussed by the members there.

Q I mean so far as we all were concerned, did she take a

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decided position?

A She took a decided position.

Q And when the letter was read, was there a discussion afterwards?

A Yes, there was discussion there.

Q Now, at that meeting, after the statement was read and discussed, was an official vote taken?

A No.

Q You have attended many labor meetings?

A Yes.

Q You know no votes were taken, minutes like regular memoranda kept, when I presided?

A I did not follow that.

3² Q At any time where I have been chairman, would the proceedings be kept in this official manner?

A No, not at all.

Q Would the question be put to a vote officially?

A No, never had been.

Q It was instead an expression, it would be the consensus of opinion?

A Yes.

Q When they considered a position?

A Yes.

Q What was the final decision as to registration?

A The final decision, as far as I understood, -- well,

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there was about twenty-five people, and everybody expressed his opinion, you yours, and everybody, and they had this view that we should not urge people to register nor not to register, and in fact I am of conscriptable age, and I registered.

Q You are a member?

A I am a member of the No-Conscription League, and I registered.

~~MR. BERMAN: I think that is the best proof.~~

CROSS EXAMINATION BY MR. CONTENT:

Q Were you in court yesterday?

A Yes.

Q All day?

A Yes.

Q Now, at this meeting of May 18th, at the Harlem River Casino, did Miss Goldman make any mention of registration in her speech?

A Not so far as I remember.

Q Your best recollection is the word "register" or "registration" was not used?

A I don't remember it.

Q That is your best recollection?

A I don't remember if she mentioned that word "register" or not to register.

Q Well, that was an important point, wasn't it?

A Yes, but I don't remember exactly.

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Q But you do remember exactly, you do remember distinctly the exact words she used to the regular soldiers?

A Yes, because that attracted my mind, when they started a big disturbance.

Q But you don't remember whether or not she mentioned the word "registration"?

A No.

THE COURT: The word "registration" or "register".

A I really don't remember.

Q In this letter that Miss Fitzgerald read, how many sheets of paper, do you recollect, was that?

A I think it was one sheet, and on the other side, or a sheet and a half. I don't remember exactly.

Q Was it typewritten?

A I should say it was typewritten, I don't remember. I did not pay much attention, because it was announced anyhow.

Q In this letter did she say to the No-Conscription League they should not discuss registration -- was that the statement she said?

A No, they discussed, and had come to the decision --

Q I asked whether in the statement of Miss Goldman she said registration should not be discussed?

A The statement was we were not to advise people to register or not to register.

Q Before you said Miss Goldman said she did not oppose

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registration?

A No, she said we should discuss the matter, but should not urge people to register or not to register.

Q Either one way or the other, either register or not to?

A No, not to urge people not to, that is her position.

Q Were you subpoenaed to appear in this case?

A Yes.

Q Have you the subpoena with you -- how was it served upon you?

A (Producing paper). Well, I heard about this case, and I went up to Mr. Weinberger, I went up, as being at the meetings and knowing.

~~Q Did you tell Mr. Weinberger what you proposed to testify to?~~ A Not exactly.

~~MR. BERKMAN: I object.~~

~~MISS GOLDMAN: I object.~~

~~MR. BERKMAN: Mr. Content, you know that is not a proper question.~~

~~THE COURT: Sustained.~~

~~MR. CONTENT: I think it is.~~

~~MR. BERKMAN: Mr. Weinberger is not on trial here.~~

~~THE COURT: I will allow the question, whether you told anybody.~~

~~Q Did you?~~

A No. Do you want the exact words?

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~~THE COURT: No, the defense objects to your conversation. You are permitted to say whether you told anybody.~~

~~MR. CONTENT: It is not shown that this man, in calling on Mr. Weinberger, that there is any confidential relation, of attorney and client.~~

~~MR. BERKMAN: Objection.~~

~~THE COURT: He has said he did not tell anybody.~~

Q You did not tell anybody what you proposed to testify to? A No.

Q Did you discuss this with anyone?

A No.

Q So that when you went on the stand this morning, you didn't know whether you were to be asked about this speech of Miss Goldman, which she gave at the meeting on May 18th?

A Not at all.

Q You had no idea?

A None at all.

~~MR. BERKMAN: Objected to, that is not proper.~~

~~THE COURT: That is a perfectly proper question.~~

~~MR. BERKMAN: I did not insinuate such questions to the witnesses of the District Attorney.~~

~~MR. CONTENT: Whether you did or not, it is proper.~~

~~MR. BERKMAN: Whether it is or not, it is not common sense.~~

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~~THE COURT: Now, proceed.~~

~~MR. BERKMAN: I did not ask such questions of your witnesses.~~

~~MR. CONTENT: Why didn't you.~~

~~MR. BERKMAN: It is beneath my dignity.~~

~~THE COURT: Your questions are perfectly proper -- proceed.~~

~~MR. BERKMAN: Exception.~~

Q So that your evidence now is that before you went on the stand, you never told anybody about what you were going to testify to?

A Absolutely.

~~Q You never told Mr.~~

~~MR. BERKMAN: Objection. First it was a general question, and --~~

~~MR. CONTENT: I have not finished asking the question yet.~~

~~MR. BERKMAN: You started~~

~~MR. CONTENT: And I am going to finish, with your permission.~~

~~THE COURT: Finish your question, but don't answer him until I instruct you.~~

~~Q Now, Mr. Abrams, did you ever tell Mr. Berkman or Miss Goldman that you did not hear them say "We believe in violence and we will use violence"?~~

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~~MR. BERKMAN: Objection. We are not witnesses.~~

~~THE COURT: Overruled.~~

~~MR. BERKMAN: Exception.~~

Q I ask you ~~again~~, did you ever tell Mr. Berkman or Miss Goldman, the defendants, that you had not heard them in the May 18th speech, say, "we believe in violence and we will use violence"?

A I did not speak to them about it.

Q Not at all?

A Not at all.

Q You were a speaker at the meeting in Forward Hall?

A Yes.

Q You spoke in the Yiddish language?

A I did.

~~MR. BERKMAN: Objection. Forward Hall is not on trial.~~

~~MR. CONTENT: It don't have to be.~~

~~MR. BERKMAN: What has that got to do with this?~~

~~THE COURT: The questions, thus far, are perfectly proper.~~

Q Were Miss Goldman and Alexander Berkman speakers at the same meeting?

A Yes.

Q You were there and heard their speech?

A Yes, I did.

~~Q Did they at that time, did you at that time hear Miss~~

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~~Goldman say,~~

MR. BERKMAN: Objection to the question.

THE COURT: That is overruled.

MR. BERKMAN: Because the Forward Hall meeting has not been admitted. The defense is here to admit everything that is a fact, but I do not see any connection with what she said in Forward Hall. And this is not cross-examination at all. The Forward Hall meeting has not been mentioned in our examination of the witness.

THE COURT: The witness may be interrogated as to any public meetings prior to the date of the indictment; is this?

MR. CONTENT: Yes, it was. The indictment was dated the 21st.

THE COURT: At which the defendants were present. That is a perfectly well settled principle in conspiracy indictments.

Q At that time did you hear Miss Goldman use these words: "You say it is a law? I defy your law"?

A Well, I went out right after the speech, when Miss Goldman started to speak, on account of taking collections during the meeting, and I did not hear that.

THE COURT: Did you hear her speak?

THE WITNESS: When she started, I took the money to go to Forward Hall, to put the money in the safe.

~~MISS GOLDMAN: May I speak here?~~

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~~MR. CONTENT: I object to Miss Goldman testifying~~

MISS GOLDMAN: We admit anything in the stenographic notes.

Q Didn't you hear either Mr. Berkman or Miss Goldman speak?

A Yes, I heard Mr. Berkman.

Q I put the question to you first as to Miss Goldman.

A Yes, I heard Miss Goldman, but not the whole speech. You did not ask if I heard the whole speech.

~~Q~~ Q Which part of her speech did you hear?

A When she started, I went out with the money, I went to put the money away, I walked out, and the policemen would not allow me to come in.

Q Did you hear any of Miss Goldman's speech?

A No.

~~Q Did you hear Miss Goldman say this: "The only law that I recognize" --~~

~~MR. BERKMAN: Objection. The witness just testified after taking the collection he went out of the hall.~~

~~MR. CONTENT: All right, I will not ask any more.~~

~~MR. BERKMAN: We admit the whole speech. X~~

BY MR. BERKMAN:

~~Q Mr. Abrams, you were subpoenaed to testify. You were in court here yesterday?~~

~~A Yes.~~

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~~Q And you were in court because you expected to be called yesterday?~~

~~A I just came to the trial.~~

~~Q Weren't you told that the case is going on, and perhaps we needed you?~~

~~A Yes.~~

~~Q And you waited here to be called all day?~~

~~A Exactly.~~

~~Q The same as you are here this morning?~~

~~A Yes.~~

~~MR. BERKMAN: That is all.~~

~~RECROSS EXAMINATION BY MR. CONTENT:~~

~~Q Was your speech, which was delivered when Mr. Berkman and Miss Goldman were present; that was in the Yiddish language?~~

~~MR. BERKMAN: I object.~~

~~MR. CONTENT: This was in the presence of both defendants, at a public meeting.~~

~~MR. BERKMAN: I object to what the speakers said.~~

~~THE COURT: I sustain the objection.~~

~~MR. CONTENT: You allowed it as to Mr. Abbott, yesterday. I asked if they were there, and he said they were, and I quoted the remarks of the speakers. He may be one of the persons to the Grand Jurors unknown.~~

~~MR. BERKMAN: I want to qualify here that I do not object to anything he may have said, but I do object to~~

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~~bringing in these irrelevant matters.~~

MR. CONTENT: I think this goes to his credibility, add I will only ask this one question for the purpose of bringing that out. You allowed it yesterday.

THE COURT: Mr. Abbott was the chairman of that meeting.

MR. CONTENT: Yes, and this man was a co-speaker, and Mr. Berkman was the chairman of this meeting.

THE COURT: There is nothing in the evidence to show he arranged the meeting, so I will exclude it.

MR. BERKMAN: Furthermore, the man said he spoke in Yiddish. You would have to have a Yiddish report of his speech.

MR. CONTENT: I understand Yiddish, and I am about to propose to ask him a question as to whether he said something in Yiddish.

THE COURT: The testimony of the other speeches at the Harlem River Casino, or park, whatever the name is, and at Hunt's Point, as to the other speakers, is admissible because the evidence shows that the defendants arranged, or were parties to the arrangement, for that meeting. There is no evidence as to who arranged the Forward Hall meeting, so that I shall at this time not receive the speeches of persons other than the defendants.

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MR. CONTENT: Will you allow me at this point--
I would like to examine a witness on this. I would
like to offer some testimony to show Miss Goldman at a
previous meeting announced this meeting being held, and
asked the people to come to it.

THE COURT: Yes, you have the right to lay your
foundation.

MR. CONTENT: May I do that at this time?

THE COURT: Yes.

G E O R G E D . B A R N I T Z , recalled.

DIRECT EXAMINATION BY MR. CONTENT:

Q You have ~~been called~~ before in this case?

A I have.

Q Were you present at the meeting held at the Royal
Lyceum on West 114th street on June 11, 1915?

A I was.

Q Was Miss Goldman a speaker at that meeting?

A She was.

Q Was I present at that meeting?

A You were.

Q Do you recall at the close of her speech, when she
announced, or whether she announced a subsequent meeting?

A She did.

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MR. BERKMAN: One moment. I would like to be clear about the purpose of this, calling this last witness now, while the defense is putting in its case? Is that a regular procedure?

THE COURT: It is a matter of procedure, in order to lay a basis for some formal fact which must be proved. It is perfectly proper, and is allowed.

MR. BERKMAN: So that the Government can open its case at any time?

THE COURT: The order of proof is entirely in the discretion of the Court.

MR. BERKMAN: What is the purpose of this witness?

MR. CONTENT: In order to show --

~~THE COURT: You will see in a moment.~~

Q What did Miss Goldman say at the close of her speech, in substance?

A She said there was another meeting at Forward Hall, on the following Thursday, June 14, at 175 -- if I have the correct number -- East Broadway, at 8 P.M., and she invited everybody to be present.

Q Did she use these words "On Thursday, June 14, there is going to be a meeting at Forward Hall, 175 East Broadway"?

A She did.

MR. BERKMAN: The defense admits that anyway.

~~MR. CONTENT: All right, you seem to be objecting~~

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~~against it.~~

Q Dis she use these words, "We invite the soldiers, the police, and all"?

A She did.

~~MR. CONTENT: That is all.~~

THE COURT: Do you want to cross-examine.

MISS GOLDMAN: No, I have nothing to say.

MR. BERKMAN: We admit all that.

MR. CONTENT: Now, I think I have laid the foundation. Miss Goldman invited people to this meeting, and that she was a speaker and Mr. Berkman was a speaker.

MR. BERKMAN: That is admitted.

~~THE COURT: Now, ask your question.~~

J A C O B A B R A M S , resumed the stand.

BY MR. CONTENT:

~~Q Did you, in the Yiddish language, in the course of your speech, make this remark, --~~

~~MISS GOLDMAN: Pardon me, I would like to ask the Court whether, if I go to a meeting as part of the audience, or whether I go as a speaker, and invite friends, or people in general, does that make me the originator of that meeting, or the manager of the meeting?~~

~~Q. MR. CONTENT: Was Mr. Berkman chairman of this meeting?~~

MR. BERKMAN: Yes, sure.

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THE WITNESS: He was.

THE COURT: The testimony is that the chairman of the meeting was the defendant Berkman, and that the defendant Emma Goldman announced the meeting, and under those circumstances the statements made by other speakers at the meeting are admissible. The weight and relation of the statements are matters for the jury to determine.

~~MISS GOLDMAN: May I say just one word. I think there is a little misunderstanding. The meeting that Mr. Barnitz testified to was on the 11th, I believe, and was at the Lyceum Hall, in West 114th street. Mr. Berkman was not the chairman, nor was he present.~~

MR. CONTENT: It is not claimed he was. It is only claimed he was chairman of the Forward Hall meeting.

MISS GOLDMAN: I beg your pardon, I thought that was what you meant.

MR. CONTENT: It is not part of our case, except to show that you announced this Forward Hall meeting. Of course, if the defense claim they had nothing to do with the Forward Hall meeting, I will not press it.

~~MISS GOLDMAN: I only wanted to know the reason for it. We were not sure.~~

Q Did you, in the course of your speech, in the Yiddish language, make the remark, "I will not allow myself to be conscripted under any circumstances"?

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A I never said that.

Q You never said anything like that?

A Absolutely, I did not speak about conscription.

Q Never mentioned conscription?

A I did not speak about conscription or registration, not at all.

Q You did not speak about that -- what did you speak about?

A I spoke on the labor question.

Q Only on the labor question?

A I spoke on the labor question ... only.

~~MR. CONTENT: All right.~~

BY MR. BERKMAN:

Q When you were invited by myself to speak at that meeting, at Forward Hall, do you remember whether or not I said to you I wanted you to represent the labor element?

A Exactly.

Q Do you know whether I had / ^{another} representative of the labor element there?

A Another? I don't remember.

Q Whether one was invited -- do you know Morris Cole was invited?

A Yes, of the amalgamated clothing workers.

Q Do you know what is the full name?

A The Amalgamated Clothing Workers of New York, which

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consists of sixty thousand members.

Q Is he the secretary and treasurer?

A He is the secretary for New York of the Amalgamated Clothiers.

Q You and he were representing the labor element. Did you see on the platform also, Mr. Vanstone?

A Mr. Vanstone of the United Hebrew Trades, yes.

Q Who is he?

A He is the secretary of the United Hebrew Trades.

Q The assistant secretary?

A Yes, assistant secretary.

~~MR. BERKMAN: That is all.~~

~~MR. CONTENT: That is all.~~

MISS GOLDMAN: Now, may I put in evidence (examining papers and submitting same to the Court)?

THE COURT: Just read it to the stenographer.

134 [MISS GOLDMAN: Yes, I will.

Volume, Exhibit B, I want to read certain pages, under the title, "Anarchism", I don't know the number of the page, I am sorry to say, pages 85, 86, 89, & 92, 93, 113, and the beginning of the second paragraph on page 114. Then, a part of the same exhibit B, pages 169, 170 and 171, "The Modern Sequel of the San Francisco Fire".

Page 2, second and third paragraph, pages 4, 5, 6 and 7, beginning with the first paragraph on page 8 and 9.

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(Marked in evidence as Defendants' Exhibit H).

THE COURT: Now, the next on your list here is Mother Earth, Volume 12, No. 1, page 34, an editorial.

(Marked in evidence as Defendants' Exhibit I).

MISS GOLDMAN: Also the same exhibit, Volume 12, No. 1, an article entitled "Promoters of War Mania", page 5 of Exhibit I.

Also Volume 10, No. 1, September, 1915, pages 248 and 249.

(Marked in evidence as Defendants' Exhibit J).

Mother Earth, Volume 4, No. 5, page 137: "A New Declaration of Independence".

THE COURT: What year is that?

MISS GOLDMAN: That is July, 1909.

THE COURT: What is that number?

(Marked in evidence as Defendants' Exhibit K).

MISS GOLDMAN: You have this exhibit in evidence, Volume 12, No. 2, Mother Earth, page 34.

THE COURT: Yes, I noticed that before, Volume 12, is marked, at page 34, and is considered in evidence.

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V I C T O R I A L E V E N S O N , a witness called on
behalf of the defendants, being first duly sworn, testi-
fied as follows:

DIRECT EXAMINATION BY MISS GOLDMAN:

Q Miss Levenson, have you on a number of occasions done
substitute work for me as a stenographer?

A Yes.

Q You have typewritten some of my articles?

A Well, I remember one article I did, or two.

Q You mean you copied one or two?

A Yes, copied.

Q And also you have on different occasions taken dictation
work on the machine, have you not?

A Yes.

Q And also stenographically?

A Yes.

Q But I mean, copying articles, you have done so for me?

A Yes, once.

Q How did you find my handwriting, easy?

A Oh, no, I could not, I would struggle very hard with
it, you had to be at my hand, and then you would take it right
over, and read it, and then you would dictate it straight on
the typewriter. Your actual writing, handwriting, I could
not go along with it.

Q Is it true, or is it not true, that you left out some

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words in the typewritten copy?

A Quite a good deal, that I could not decipher, and did not want to bother with.

~~MISS GOLDMAN: That is all.~~

THE COURT: Any questions?

MR. CONTENT: No.

~~THE WITNESS: May I say something?~~

EXAMINATION BY MR. BERKMAN:

Q One question. Have you ever known Miss Goldman's manuscript written by hand to be sent to the printer?

A No, I don't remember that.

Q Was it the custom of the office always to typewrite anything written by Miss Goldman?

A Yes, sir.

~~MR. BERKMAN: That is all.~~

~~MR. CONTENT: That is all.~~

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P A U L I N E T U R K E L , a witness called on behalf
of the defendants, being first duly sworn, testified
as follows:

DIRECT EXAMINATION BY MR. BERKMAN:

Q What is your occupation?

A I am a stenographer and typewriter.

Q Do you work for somebody now?

A I am.

Q Did you at any time work in the Mother Earth office?

A I did.

Q When was that?

A Between the months of January and May, 1917.

Q Are you working in the Mother Earth office now?

A No.

Q When did you leave the position?

A In the middle of May.

Q What was the reason you left?

A I went to visit some friends in Albany.

Q Albany, New York?

A Yes.

Q While you were working in the Mother Earth office, did
you act as stenographer and typewriter for Miss Goldman?

A I did.

Q Also bookkeeper?

A Yes, sir, bookkeeper.

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Q Did Miss Goldman write letters when she happened to be home in the office?

A She wrote a number of letters.

Q Give you directions about the business?

A She did.

Q Did you ever receive letters from Miss Goldman in her own handwriting?

A I did receive two, while she was on the road.

Q Did you find it easy to read her handwriting?

A Very difficult.

Q Did you ever receive manuscripts from Miss Goldman for the printer?

A Yes, I did.

Q Did you receive them in her own handwriting, when you did, did you send them to the printer?

A I did not, I typewrote them.

Q Were there specific instructions in the office that anything Miss Goldman wrote should not be sent to the printer until it was typewritten?

A Well, we did not attempt that.

Q What was the reason?

A Because it was so difficult to decipher her writing.

Q Were you at the mass meeting at the Harlem River Casino on May 18?

A I was.

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Q Were you close enough to the speakers to hear them?

A I was.

Q Hear them distinctly?

A Very.

Q Did you hear Miss Goldman's?

A I did.

Q Did you hear her whole speech?

A Yes, every word.

Q Did she at any time say, "We believe in violence and we will use it"?

Start A I don't remember hearing any such remark.

Q If she had used such an expression, would that have attracted your attention?

A I am sure it would.

Q Did she tell people, advise or urge people not to register at that meeting?

A She did not.

Q Did you hear Mr. Berkman tell or advise or urge any people not to register at that meeting?

A I heard nothing of the kind.

Q You heard nothing like that, or in the other speeches?

A Not according to my memory.

Q Did I speak about conscientious objectors?

A Yes, you did.

Q Did I mention that it is up to the conscience and judg-

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ment of every person to do as he thinks best in the matter?

A You did.

Q Were you present at the meeting of May 23rd, at Miss Goldman's apartment?

A I was not.

CROSS EXAMINATION BY MR. CONTENT:

Q At the meeting of May 18th, do you remember what was said at that meeting?

A Certainly.

Q What do you remember?

A Well, I remember Miss Goldman saying that the American people ought to be glad that at least they have a few people in Congress who are true to their conviction.

Q Did she mention the names of any Congressmen?

A I remember only two, that was LaFollette and Stone.

Q Was the word "registration" or "register" used at all according to your recollection?

A I am not positive.

Q What is your recollection?

A Why, I think Miss Goldman said there would be a good many people who will not register.

Q She did say that?

A Yes.

Q Did you hear anything about supporting those who refused to be conscripted?

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A I don't remember exactly.

Q Well, that is rather important, isn't it?

Wouldn't that impress itself upon your mind if she had said it?

A I think it would.

Q Now, what is your best recollection as to whether or not she said, "We will support with all the means at our support, those who refuse to be conscripted"?

A I am not sure, and therefore I would not say she said it one way or the other.

Q It would have impressed itself upon your mind if she had said it?

A I think it would.

Q Was any pledge made by the people not to register that night?

A There was not.

~~MR. CONTENT: That is all.~~

BY MR. BERKMAN:

Q Was there any collection taken at that meeting?

A Yes, there was.

Q And do you remember who called for the collection?

A Miss Goldman.

Q When she called for the collection, did she ask the people to donate as liberally as they could for the work of non-conscription?

A She did.

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Q What do you understand the word "pledge" to mean --

~~MR. BERKMAN: I was not clear what the District Attorney meant when he asked whether the people pledged something.~~

~~MR. CONTENT: I asked if she heard any pledge taken there by the people not to register.~~

~~MR. BERKMAN: Oh, all right.~~

~~THE COURT: Now, you may recall Miss Levenson.~~

V I C T O R I A L E V E N S O N , recalled.

DIRECT EXAMINATION BY MISS GOLDMAN:

~~Q Were you at the Harlem River Casino meeting?~~

~~A Yes.~~

~~Q On the 18th of May?~~

~~A Yes.~~

~~Q In the Harlem River Casino meeting, where were you, were you right by me?~~

~~A No.~~

~~Q You were busy at the end of the hall?~~

~~A Yes, with the collection.~~

Q Were you at the meeting which has taken place in my apartment on the 23rd of May?

A Yes, I was there.

Q Was I present?

A No, you were not.

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Q Have you any idea why I was not present?

A Yes, you were away on a lecture, I think in Springfield, I don't know just where, I think it was Springfield.

Q You think it was Springfield?

A I think so, I don't know just where, but I know you were away on a lecture.

Q Did you hear my message read?

A Yes, there was a message by you.

Q Which I sent?

A Yes.

Q Did that message give the definite position, or statement, or rather the definite position of the writer, Miss Goldman?

A As regards what?

Q Well, as regarding registration.

A No.

Q I mean, did the message explain my position?

A Yes, in this way, I remember a few words, I will interpret it in my own way. You said, you told them in the message that it was a very serious matter, this registration, and that you could not take it upon yourself to tell them what to do, because it was against your conscience, that they were supposed to decide it for themselves.

~~Q Miss Levenson, were you at the meeting at the Forward Hall on June 14?~~

~~A Yes.~~

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Q What happened when you left the hall?

A Why, I was befallen by a number of regiments.

THE COURT: You were what?

THE WITNESS: I was attacked by a number of regiments, soldiers.

Q You were roughly handled by the soldiers?

A Yes.

Q Now, do you remember when you left the hall, did you not intend to come back?

A Yes.

Q Did you go out to get a taxi?

A Yes.

Q For Mr. Berkman?

A Yes.

Q And you intended to come back?

A Yes.

Q What happened when you tried to come back?

A One of the soldiers said, -- they were standing by the staircase, while another one came over and pushed me, said, "You can't", and that is how the row commenced, and they forced me out of the hall, and then after having about a dozen of them on top of me, an officer came over and said, "Leave her alone; leave her go where she wants".

MR. BERKMAN: That is all.

CROSS EXAMINATION BY MR. CONTENT:

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Q Isn't the fact that the reason you kept out of the hall at this moment was that you had in your hand a registration card for the purpose of giving it to somebody?

MR. GOLDMAN: I object.

THE COURT: Objection overruled.

A I had nothing at all.

Q Isn't it a fact also that the soldiers had no control over that meeting at all, but it was absolutely in the hands of the police?

MR. BERKMAN: I object to that.

Q Isn't it the truth that the police were in entire charge that night, that the soldiers had nothing to do with letting people in or not?

MR. BERKMAN: I object. I can prove there were fifty soldiers in the hall.

MR. CONTENT: Of course there were.

MR. BERKMAN: What do you call in charge?

MR. CONTENT: There were fifty of your people in there too.

A And I saw the soldiers, some of them they were ordering one to stand at the various stairs -- that they were ordered to be at the meeting to keep order at the meeting, so to speak.

Q By whom were you stopped, really?

A By the soldiers.

Q In uniform?

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A Yes, of course.

Q Sure of that?

A Why, of course, I am certain, positive.

BY MR. BERKMAN:

Q Do you know whether, as the audience began to go out, at the end of the meeting, whether they were not held up by soldiers in uniform, asking for registration cards?

A Of course.

BY MISS GOLDMAN:

Q Is it true, or not true, that the police officers interfered in your behalf with the soldiers?

A It is true that they interfered in my behalf, to rescue me from the soldiers.

BY MR. CONTENT:

Q Well, how do you know who was on guard, or coming out of the hall, when you were not in the hall?

A At the time I mentioned, I was going out, and I said to the defendants, "I am going to call a taxi for you". I was told Mr. Berkman could not go out himself.

Q And in other words, you could not get back again?

A I was to come back to tell the defendants there was a taxi for them.

Q Was the meeting over at that time?

A It was over at that time.

Q Well, the people were coming out?

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A Yes, but I was there while the people were coming out. I was inside when they were coming out, and I said to someone to go for a taxi, and they did, someone, and no one returned, and I said I will go out, and I doubted to myself whether I would be able to return again.

Q Then you went out, thinking you would not be allowed to return?

A I at least expected to wait on the stairs for them, waiting for them to come down.

Q You know you have to go down a few steps to get out of Forward Hall, to get to the street level?

A Yes.

MR. BERKMAN: Objection. A few steps, that is all right. You have to go down one or two flights.

THE COURT: I really think you are both wasting the time of the court on this matter.

MR. CONTENT: It is not very important.

THE COURT: It is nothing but a waste of time. It don't make any difference what experiences the witness had, according to her testimony, whether it was one soldier, or several regiments.

MISS GOLDMAN: It makes this difference, that we who are accused of causing violence, were keeping peace, and the soldiers, who were supposed to keep order, were breaking up the meeting.

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X Q Now, there are a number of steps, aren't there, as you come out of Forward Hall, to get to the street level?

A Yes.

Q That is correct?

A Yes.

Q And a doorway?

MR. BERKMAN: I want to call to the Court's attention, I want the District Attorney to be exact whether he means Forward Hall, or the Forward Building. There is a dozen halls in that building.

MR. CONTENT: I mean the building. You understand what I mean. I said the street level.

THE COURT: All right, the building.

Q Do you understand what I mean?

A Yes, to the street.

Q In order to get to the street, when you come out of the building?

A Yes, that is where I expected to stand, at the foot of those steps.

Q Into the street?

A Yes.

Q Isn't it true that the entrance to the building is a narrow one?

A No, the entrance is quite wide.

Q Did not the police have two of those three doors locked X

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so that you could not get out only one door?

A No, I remember the doors were wide open.

Q All of them?

A Yes.

Q The crowd was flowing out at the time you attempted to reenter the building?

A Why, yes, out of one side. I don't remember which one.

Q Was it the side on the east?

A It was on the side, to me.

Q Looking toward the East River?

A Yes, I think so.

Q Is that correct?

A I think that is correct. I don't just remember directions. I don't know, I wouldn't say my memory responds to such details, because I don't remember.

Q This is on the east, East Broadway, the entrance?

A Yes.

Q And when you come in the building, the elevators and staircases are on the side that is toward the East River?

A No, they are in the west side, I think.

Q Sure of that?

A Yes, I am quite certain.

MR. BERKMAN: I object. How is the witness to remember whether they are on the east or the west or

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the inside of the building. It is not an easy matter.

THE WITNESS: I can't remember just where it was.

THE COURT: Objection overruled.

MR. BERKMAN: Exception.

Q Don't you remember, at the time you were trying to get in the building?

A I wanted to explain to Miss Goldman, but, as I said before, I did not get a chance, and before I got out of the crowd, why, the police came along, so I thought I might as well stay there, as long as I could not get back, as long as I wanted to see the defendants, and I remained at the stairway, and the officers said "You can't", and one said, "You may".

Q Do you know a young man named Nahum Rocklin?

A No, I don't know him.

MR. CONTENT: That is all.

BY MR. BERKMAN:

Q Do you remember whether I was chairman of the meeting at Forward Hall?

A Yes.

Q Isn't it a fact that you were sent out to get a cab, sent for me, as I could not walk?

A Yes.

Q I had my injury?

A Yes.

Q Would you be sent out for a cab before the meeting

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was over?

A Why, of course not.

Q Do you remember whether the soldiers were standing and asking men for their cards after the meeting, in the hall, along the two stairs, coming out of the meeting?

A At all the entrances.

Q And downstairs?

A Yes.

Q Is the Forward Building a small or a big building, approximately speaking, as buildings go on the East Side?

A Well, it is a substantial size.

Q Well, you think there are two floors, or ten or fifteen?

A I don't know.

Q May I call your attention to the fact that the United Hebrew Trades are on the fourth floor, and the Forward office is on the 15th. Now, do you remember the street entrance to the hall, is it narrow, or proportionate to a building of that size?

A I think it is quite.

MR. BERKMAN: I will ask another question.

Q Is it one of the biggest buildings in that neighborhood?

A It is.

MR. BERKMAN: That is all.

BY MR. CONTENT:

Q Mr. Berkman asked you whether the soldiers were not hold-

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ing up the people for their registration cards, and your reply was yes?

A Yes.

Q Well, they found some who had not registered, didn't they?

MR. BERKMAN: Objection.

A I don't know --

MR. BERKMAN: Hold on, listen to my objection.

THE COURT: Sustained.

BY JUROR NO. 4:

Q May I ask the witness if you think that the soldiers or the policemen were placed there to maintain order or to create order?

A Well, they are supposed to maintain order.

Q Not to create disorder or disturbance?

A Yes.

JUROR NO. 4: That is all.

MR. CONTENT: That is all.

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J A C O B J . L I N D , a witness called on behalf of
the Defendants, affirmed on his oath, as follows:

DIRECT EXAMINATION BY MR. BERKMAN:

Q Where do you live?

A 178 Nostrand Avenue, Brooklyn.

Q What is your profession?

A High School teacher.

Q What school do you teach?

A Morris High school, Bronx.

Q What subjects do you teach?

A I teach Latin.

Q Are you a graduate of some University?

A Columbia College.

Q Were you at the Harlem River Casino Meeting on May
18, 1917?

A I was.

Q Did you have any special purpose in going there?

A Sort of educational, I wanted to see the stand, hear
the stand of the people who were opposed to conscription, be-
cause I always was opposed to conscription.

Q Are you a conscientious objector?

A I am.

Q Do you object to war for reasons of conscience?

A Absolutely.

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Q And you came to the Harlem Casino meeting to hear what steps would be taken with regard to registration and conscription?

A Well, I had my own stand, but I just wanted to see the stand of other people who had the same opinions, to get the general point of view.

Q Did you hear Miss Goldman speak at that meeting?

A I did.

Q Did you hear Mr. Berkman speak at that meeting?

A I did not.

Q You did not hear me?

A I did not.

Q You left before I spoke?

A I left just after the conclusion, after Miss Goldman's speech.

Q Had you ever heard her speak before that?

A I never did.

Q Have you known me a long time?

A Not at all,-- well, about a month.

Q Just about a month you have known me?

A Yes.

Q Have we had many conversations?

A None to speak of, worth speaking of.

Q We hardly know each other?

A Quite right.

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Q Did you hear what Miss Goldman said, distinctly?

A Quite distinctly.

Q Were you close enough to the platform to hear everything?

A I think I was.

Q Did you hear Miss Goldman say, "We believe in violence, and we will use violence"?

A I did not.

Q You are positive?

A Quite.

Q If you had heard that remark, or a similar remark, it would have been such as to call your attention to it strongly?

A I think it would, especially because I always felt the word "anarchist" was misunderstood by laymen; they always believe "anarchists," means lawless, whereas scientifically it means without law. There seems to be a slight distinction, but very pronounced.

~~MR. BERKMAN: If I may make a side remark, --~~

~~MR. CONTENT: No, no side remarks.~~

~~MR. BERKMAN: With regard to discipline, --~~

~~MR. CONTENT: I object. You are not on the stand.~~

~~MR. BERKMAN: All right.~~

Q Did you hear Miss Goldman say anything which could be

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interpreted or that could have sounded like, "We believe in violence and we will use violence"?

A Absolutely not. The general impression I got was that she was against anything of that sort. That was just a general memory of whatever she said. I could not have construed anything whatsoever in the entire speech as favoring violence.

Q And you, as a teacher, interested in educational matters, you are able to understand language?

A I think I am.

Q And if she had said anything about violence, or something favoring it, you certainly would have understood it?

A Yes.

Q Are you an anarchist?

A I am not.

Q Are you in sympathy with the ideas of anarchism?

A Well, I think they are an ideal kind of philosophy that will bring the millenium if it came. Therefore I am in sympathy in that way; also I believe everybody ought to have a right to say what they think and we should always be open-minded because we can never tell what is the right and what is not the right. The ^eonly way to discover that is to listen to people think about it, and form your own judgment. We must be sympathetic with everybody and in that way I am sympa-

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thetic to anarchists.

~~MR. BERKMAN: That is all.~~

CROSS EXAMINATION BY MR. CONTENT:

Q Mr. Lind, at this meeting, did Miss Goldman say anything about conscription?

A I think she did.

Q Was there anything of this sort said, "We will resist conscription by all the means in our power"?

A I think so.

Q Did she say, "We will support with all the means at our support, with money and publicity, all those who refuse to be conscripted"?

A Well, I remember the money and the publicity. I am not sure about the other words.

Q You remember "money" and "publicity"?

A Yes.

Q (Quoting) "We will support with money and publicity those who refuse to be conscripted." — she said that?

A I believe so.

Q You say that you were a conscientious objector yourself?

A Quite right.

Q Are you a member of any well recognized religious sect, opposed to war?

A I am not.

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Q You said to a certain extent you were in sympathy with anarchistic principles?

A I explained that by giving you my general stand. We should be open-minded to all new philosophies and new theories. In that sense I am in sympathy.

~~Q Are you in sympathy with this expression of anarchists, when they say they believe that violence is justified?~~

~~MR. BERKMAN: I object. The witness has testified that he is in sympathy only as an ideal, and therefore, it is not fair to ask whether he was in sympathy with the expression of a different matter altogether.~~

~~THE COURT: Objection sustained.~~

BY THE COURT:

13 [Q Was anything said that night by Miss Goldman about registering, was the word registration used, or the word register?

A To my best recollection, yes.

Q You think there was something said?

A Yes, I think so.

Q Now let me ask you something: Do you remember something of this sort was said -- did you hear whether this was said, exactly, or in substance, "How many people are going to refuse to conscript, and I say there are enough"?

A I am not absolutely sure it was said that way, but I

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would go towards that direction and say I would favor myself believing it was said there.

Q "I would count at least fifty thousand, and there are enough to be more?"

A I don't remember that.

Q "And they are not going to when only they are conscripted?"

A I don't remember that.

Q "They will not register?"

A I don't remember that.

Q Do you say that was not said, or just that you don't remember?

A I don't remember.

Q You don't say it was not said?

A I don't say it was not.

Q "We are going to support, with all the means at our support, with money and publicity -- we are going to support all the men who refuse to register, and who will refuse to fight?" What about that?

A The one I remember is aid with money and publicity. I am clear about that.

Q You are clear that phrase was used?

A Yes.

Q Was anything said about refusing or supporting the men who will refuse to register?

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A I don't know whether a distinction was made there between refuse to register and refuse to be conscripted. The general idea I had, was that the conscientious objectors would be aided by this society publicly and with money for legal defense.

Q For what?

A For being here as conscientious objectors.

Q What I am asking you is do you remember, according to your recollection, that you heard that or not? You are sure that what I just read was not stated by Miss Goldman?

A I can't remember the exact words, but the purport of what I have given you, was given.

Q Then do you say that the words "The men who will refuse to register and who will refuse to ^{fight} ~~vote~~, "were not used?

A I don't remember that.

Q Will you say they were not used?

A I say I don't remember that they were not used.

Q You don't remember that they were not used?

A No, sir.

Q So that you would not say that they were used?

A Yes, they might have been used.

Q Did you hear the word registration?

A Yes, sir.

Q About how many times, in the course of her speech?

A About two or three.

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Q About two or three times?

A Yes, sir.

Q Have you any recollection of what was said about registration?

A The thing I carried away was this, that she said she would not advise people not to register, not because she was afraid, but because she believed it was a matter of personal conscience, and in such a matter each one should decide for himself.

Q Did she say that about conscription?

A The general thing the speakers were discussing was registration.

Q Is it your testimony that she affirmatively said that she would not advise people not to register?

A Absolutely.

Q You are clear about that?

A Yes.

Q Can you give me the words?

A I have given you the words, that she said she would not advise people not to register, not because she was afraid, but because she believed it was a matter of personal conscience, and in such a matter each one should decide for himself.

Q She said in substance the words you have just stated?

A Yes, I think I am pretty accurate, the wording is pretty accurate.

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Q And it was this connection in which she used the word register?

A That is the connection in which I remember it most.

~~X THE COURT: Very good.~~

~~BY MR. CONTENT:~~

~~Q Were you at the Hunt's Point Palace meeting in June?~~

~~A No, sir, I tried to get in, but the police would not let me pass the line.~~

~~MR. CONTENT: That is all.~~

(Recess until 2 P.M.)

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A f t e r n o o n S e s s i o n .

2 o'clock P. M.

~~THE COURT: The next witness.~~

~~MISS GOLDMAN: May I ask at this point, I understand that the District Attorney has two sets of the same cards, of our index cards, one from our mailing list, and one from the office. May I ask whether it is proper at this time to have one set returned, inasmuch as we are handicapped in our work. They are duplicates of the cards that were taken during the arrest.~~

~~MR. CONTENT: Why, Mr. Wood, of Buckley & Wood, who was a witness, produced under subpoena a certain mailing list. I have not offered it in evidence, because there is no point to that, they are not in evidence, not a part of the testimony, but Miss Goldman may look at them.~~

~~MR. GOLDMAN: I just ask him as a favor.~~

~~MR. CONTENT: You may look at them. They were produced by Mr. Wood under subpoena.~~

~~THE COURT: You may have every opportunity to inspect them.~~

~~MR. CONTENT: They are not in evidence, but Miss Goldman may look at them all she wants to.~~

~~THE COURT: Hand them to the defendant.~~

~~MR. CONTENT: But, you will appreciate there is no~~

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X way of my putting them in evidence.

MISS GOLDMAN: I will return them to Mr. Wood.

MR. CONTENT: You can't do that, the Grand Jury has them.

MISS GOLDMAN: Will they be returned to Mr. Wood?

MR. CONTENT: Certainly, we always do return them.

MISS GOLDMAN: I only wanted to know can they be returned to us.

MR. CONTENT: No, I will not return them during the course of the trial. As soon as we are finished, I will return them, because they are under subpoena.

THE COURT: As soon as the trial is over, he will return them.

MR. CONTENT: I must return them, afterwards, they are only under subpoena.

MISS GOLDMAN: All right.

THE COURT: Now, Mr. Berkman, I am ready.

MR. BERKMAN: May it please the Court, we still have quite a number of witnesses, among them the editor of Current Opinion, Mr. Frank Harris, a writer of international note; we have the editor of Issues; Mr. Harris has been mentioned as the secretary and treasurer of the New York Joint Board of Amalgamated Clothing Workers of America — and we have a number of others; but in order to facilitate the progress of the trial, we should like to not call any X

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more witnesses, that is, just now, and reserve them in case of necessity or rebuttal.

THE COURT: You cannot do that. You must call all your witnesses. Then the Government has the right to put on witnesses in rebuttal; and that is the procedure. The defense has no rebuttal. There are some circumstances under which the defense may have what may be called sur-rebuttal. The procedure is that the Government produces its testimony, the defendants produce their testimony, and the Government closes with its rebuttal; unless, as I say, some particular point would come up on rebuttal which would call for the production of some witnesses by the defense;

MR. BERKMAN: Well, we feel it will save time, since the other witnesses are merely in corroboration of our former witnesses. We have probably fifteen or twenty-five.

THE COURT: Well, will any of these witnesses you have named, testify to being present at the meetings?

MR. BERKMAN: Some of them, most of them, nearly, but I feel as it is corroboration of statements repeated here over and over again by, and facts testified to by the witnesses for the defense, we feel that we can close the defense now with the exception of reading a few passages from the things in evidence.

THE COURT: Very good. That is for you to determine.

MISS GOLDMAN: May I just -- I don't think I quite X

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understand the Court's explanation. Now, in rebuttal, if the witnesses for the prosecution bring out certain things, do we, or do we not have the right to call our witnesses to point out the inaccuracy.

THE COURT: That depends entirely on what they bring out. After they shall have finished, I will let you know.

MISS GOLDMAN: We merely ask that so that in case we do need any of our witnesses, we shall ask them to stay in court rather than to leave.

THE COURT: I think they better stay.

~~MISS GOLDMAN: All right.~~

MR. BERKMAN: I want to state to the Court, as to the statement as to which there was so much dispute, the statement of Miss Goldman, which was sent down from Springfield, that it has just been found among the effects of this defendant -- and may we consult a moment?

THE COURT: Certainly.

MR. CONTENT: I am acquitted of the charge of larceny.

MR. BERKMAN: May we now put this statement in evidence -- may I read it?

THE COURT: Well, just let Miss Fitzgerald take the stand, and identify that as the statement.

MARY ELEANOR FITZGERALD, recalled
by the defendants.

DIRECT EXAMINATION BY MR. BERKMAN:

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~~X THE COURT: Just show her this paper, and ask her whether this is the typewritten paper to which she referred.~~

Q I show you a paper, and ask you whether that is the typewritten statement to which you referred?

A It is.

Q And that is the copy that you made of the letter received by, or statement received by you from Miss Goldman from Springfield?

A Yes, that is the copy of the statement I made from her statement.

138 MR. BERKMAN: The defense offers it in evidence.

~~MR. CONTENT: May I see this?~~

~~THE WITNESS: Yes (handing same to Mr. Content).~~

THE COURT: It is received.

(Marked in evidence as Defendant's Exhibit L).

BY MR. CONTENT:

Q That is the statement that you saw Mr. McGee take from the desk?

A That is the copy of the statement I mentioned yesterday.

Q That is the copy of the statement that you read to the meeting?

A Yes.

THE COURT: Well, that is the other paper.

Q That is the paper you read to the meeting (indicating)?

A Yes, that is the paper I read to the meeting.

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Q Did you only make one copy?

A I usually make carbon copies, but I (examining paper), I think this is a carbon of the original.

Q I beg your pardon?

A I usually make carbons, carbon copies of those. I think this is the carbon.

Q Well, I mean to say that if any statement was read at all at this meeting, it was precisely in these words?

A Yes.

Q That was the only statement that was read?

A Yes, that was Miss Goldman's statement which was read there.

Q Which you copied off, and which you read?

A Yes.

Q And you read it just exactly as it appears there?

A Yes.

Q Did you read it in its entirety, -- there seems to be some confusion as to whether you read it all -- I mean to the assembled guests?

A As I remember, I read the whole thing.

Q I rather imagine or thought some witness said that he thought that you only read part of it.

A (No answer).

~~MR. CONTENT: Now, I wanted to recall Miss Fitzgerald to examine her upon one thing. It has nothing to do with~~

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~~this, but I thought we could save time while she is on,
now that I am examining her, if I may be now permitted
to ask her.~~

~~Do you prefer to read this before?~~

~~MR. BERKMAN: No.~~

~~Q During the Hunt's Point Palace meeting of June 4, 1917,
you did not speak?~~

~~A No.~~

~~Q But you were on the platform?~~

~~A I did not go on the platform until after the close of
the meeting.~~

~~Q Were you on the platform at the close of the meeting?~~

~~A After it.~~

~~Q At the time Miss Goldman finished her speech?~~

~~A No.~~

~~Q Where were you when she finished her speech?~~

~~A All the time that Miss Goldman was speaking, when she
finished, and until the meeting closed, I was guarding the
stage door entrance at say -- this is the platform, coming
this way (indicating) and the door to the left of the stage
coming in on the left, at the door, I was watching at that
entrance.~~

~~Q Yes, I know you were standing there. Did you say some-
thing in your testimony about soldiers arresting some old lady
for giving out handbills?~~

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X A I did not mention that. Some other witness did. It was not in my testimony, but I saw, --

Q Did you see it -- what did you see?

A The incident.

Q You saw the incident?

A Yes, I saw an old lady was giving out some sort of a leaflet. I did not see them -- that is, I did not read them.

Q Did you read them later?

A No.

Q Would it refresh your recollection to look at one?

MR. BERKMAN: Shall we begin introducing new evidence?

MR. CONTENT: No, this is not new evidence. I was confused whether Miss Fitzgerald introduced this, or some other witness.

MR. BERKMAN: I want to call the attention of the Court to the point that we have not asked anything about the arrest of an old lady.

MR. CONTENT: Miss Fitzgerald remembered it just now, and I did.

THE COURT: There was something said about that.

THE WITNESS: Yes, there was an old lady hustled out of the meeting by soldiers and officers, but I never saw what she was giving out, but I understand she had some leaflet -- I don't know what, but I saw her then. X

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Q Isn't it a fact that Miss Emma Goldman on that evening had a satchel containing a bundle of leaflets, or pamphlets, similar to the one I showed you?

MISS GOLDMAN; This is new evidence, is it not?

THE COURT: He is entitled to bring that out on cross-examination.

A No, Miss Goldman never had a satchel with those things.

Q And if she had, you would have known it, wouldn't you?

A I will tell you the exact way. When this old lady was distributing these pamphlets and leaflets, which I did not read, and never saw, she was passing them out in the meeting, and one of the girls grabbed this little suitcase away from her to stop the commotion, and it was put there on the platform, but Miss Goldman had nothing to do with it.

Q You did not see Miss Goldman give out any of these?

A I did not.

Q And you did not see the satchel in her physical possession?

A I did not. I saw this young lady taking the satchel, the small wicker suitcase from the old lady, so as to prevent any further commotion, and it was put there on the platform and I did not see what became of it.

Q But you do state from your knowledge of being near the stage door, that Miss Goldman at no time had this satchel in her possession?

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X A I did not see Miss Goldman have the satchel, nor did I see her give out any such statement.

MR. BERKMAN: I would like then to re-examine, because I don't know what it is all about.

THE COURT: He asked if the defendant Miss Goldman had the satchel in which certain pamphlets were contained, and the witness said she did not have a satchel.

MR. BERKMAN: But, I mean, would it be fair for me to state now that at that meeting, the moment the last speech was delivered, and the meeting closed, soldiers and everybody flocked to the platform, and surrounded me.

MR. CONTENT: Now, I object to this, this is evidence. He is stating facts, and is not on the witness stand.

THE COURT: Sustained. You can ask any question you want from the witnesses.

MR. BERKMAN: All right.

THE COURT: Now, you may read, I think you wanted to read something to the jury.

~~MR. CONTENT: May I have this marked for identification, merely (indicating).~~

~~THE COURT: Yes.~~

(Marked Government's Exhibit 60 for identification).

MR. BEREMAN: (reading) Mother Earth, Volume 9, No. 6, August, 1914, page 185, article by A. B. "Down with Militarism". I want to explain something here. The

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article is entitled, "Down with Militarism, Up with the Rights of Man". Now, I wrote, as editor of Mother Earth, I would sometimes sign as editor, sometimes my own name and sometimes a pen name. Now, my pen name usually had A.B., and this is by Charles A. Breckenridge. The middle initials also show the initials A.B. I am reading excerpts (reading same).

MISS GOLDMAN: I want to read (reading).
This is Exhibit B, page 85 (reading same).

MR. BERKMAN: Exhibit No. 8, a few excerpts from an article of pamphlet that Miss Goldman published about a year ago, page 2. (reading same) That is a pamphlet on "Preparedness".

Defendants' Exhibit C. This is the last little excerpt I will read, and Miss Goldman wants to read one.

Volume 1, No. 2 of the Blast, published in San Francisco at that time, January 22nd, 1916. (Reading article on page 2, headed, "Aspirations of The Blast")

MISS GOLDMAN: I hope the jury will pardon Mr. Berkman and myself for reading so much, and tiring them out. I am going to read the new Declaration of Independence, which was written for the Boston Globe in July, 1909, by the defendant Emma Goldman. (Reading)

MR. BERKMAN: The defendants rest.

MISS GOLDMAN: The defense rests.

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REBUTTAL.

MR. CONTENT: In rebuttal, I would first like to read the article from Defendant's Exhibit E, which is the August 15, 1915, copy of The Blast.

This is, "Worshipping the God of Dynamite". This is published in San Francisco. (Reading)

MR. CONTENT: I also want to read this which was read by Mr. Berkman (reading article in regard to bomb).

Now, I would like to read to the jury Defendant's Exhibit L. That is the statement that Miss Fitzgerald read at the meeting of May 23rd.

MR. BERKMAN: I object.

THE COURT: One moment, Mr. Content. You have the right to read that.

MISS GOLDMAN: Have I the right to read it?

MR. BERKMAN: I have announced I was going to read it?

THE COURT: They evidently forgot to read it.

MR. BERKMAN: Yes.

MR. CONTENT: All right. You can read it.

(Read to the jury by Mr. Berkman).

MR. CONTENT: I would like to read a part of this over again. I think it is my right to do that, your Honor.

THE COURT: Yes, you have the right to do it.

(Read by Mr. Content).

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EDWARD J. CADDELL, a witness called in rebuttal on behalf of the Government, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. CONTENT:

Q You are a patrolman of the New York City Police Department?

A I am.

Q What is your shield number?

A 349.

Q How long have you been a patrolman?

A It will be two years next month.

Q Prior to going into the police department, what did you do, what was your occupation?

A Stenography, bookkeeping, various forms of clerical work.

Q Are you a shorthand reporter?

A Yes.

Q Prior to your entry into the Police Department, did you have experience in shorthand, and stenography?

A I did.

Q Did you attend any institution where you learned stenography?

A I did.

Q Which one?

A Commercial High School, Brooklyn.

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Q And in that institution you took a course in stenography and typewriting?

A I did.

Q Did you attend a meeting of the No-Conscription League, held at the Harlem River Park and Casino, on the 18th day of May, 1917?

A I did.

Q And by whose orders? At whose direction did you go to the meeting?

A Detective Barnitts.

Q Who is sitting here at the table, and also testified as a witness in this proceeding?

A Yes.

~~(Recess for ten minutes)~~

Q Were you present when Emma Goldman spoke?

A I was.

Q Did you take a stenographic report of her speech?

A I did.

Q Now, at the time you took this report, where were you with reference to the place where Miss Goldman was delivering her speech from?

A Well, about approximately, about fifty feet, seventy feet.

Q Where?

A In the box.

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Q You mean on the main floor?

A On the main floor.

Q Mr. Randolph testified he was in the balcony. You were not on that balcony?

A No, sir, I was not on the balcony.

Q You were on the main floor?

A Yes.

Q Seated or standing?

A Seated.

Q Did you have your stenographic notebook?

A I did.

Q Have you it in your pocket now?

A I have.

Q Will you produce it (same produced). Did you have anything else to lean on?

A My knee.

Q Could you hear Miss Goldman Plainly from the place where you were seated?

A Very plainly.

Q Did she speak slowly and deliberately?

A Slowly and deliberately.

Q How many words approximately would you say her speech was?

A Well, I had no difficulty in taking her and I would estimate she was never over 125 words a minute.

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Q Did you make a transcript of your stenographic notes?

A I did.

Q When did you make that transcript?

A The following day.

Q Did you see Randolph at the meeting?

A I did not.

Q Did you know he was at the meeting?

A I did not.

Q Did you ever compare your notes with Randolph?

A I did not.

Q Did you ever have the transcript of his notes in your possession?

A No, sir.

Q Were you called as a witness before the Grand Jury in this proceeding?

A I was.

Q And was your transcript used before the Grand Jury?

A It was.

Q Now, I show you a transcript, on which I have written the name, "Caddell" in ink, and ask you to look and see if that is the transcript of your stenographic notes?

THE COURT: Your stenographic notes of Emma Goldman's speech on May 18th, 1917.

A That is the transcript I made.

Q Now, at the time you took the stenographic notes, did

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you take them to the best of your ability?

A I did.

Q And as accurately as you could?

A I did.

Q Was there much disturbance during her speech?

A Not that I noticed, nothing unusual.

Q You had no difficulty in taking what she said?

A I had no difficulty.

Q Now, intranscribing the stenographic notes into the transcript which I hold in my hand, did you transcribe your notes to the best of your ability?

A I did.

Q And as accurately as possible?

A I did.

Q And do you feel safe in saying that the paper I hold in my hand is an accurate transcript of your stenographic notes?

A It is.

MR. CONTENT: Now, I offer the original stenographic notes in evidence, and I offer the transcript in evidence.

THE COURT: Just pick out the --

MR. CONTENT: I will pick it out, but I think they better be marked, just for the purposes of the record.

I will call his attention to specific passages.

THE COURT: All right.

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MR. BERKMAN: Can we see the notes?

MR. CONTENT: Surely, everything.

~~Now, just for half a minute. I will give Miss Goldman the fullest inspection, but I want the witness to use them for a moment.~~

(Marked as follows: The original notes were marked as Government's Exhibit No. 61.

The transcript of the original notes was marked Government's Exhibit 62.)

139 [Q Now, taking Exhibit 61 in your hand, will you see if you can find on there these words, "We believe in violence, and we will use violence". Have you found it?

A Yes.

Q Now, will you place a mark there (witness marks on book).

MR. CONTENT: Now, will you please step down from the stand, and show that to the official stenographer of the Court, Mr. Hawthorne.

(Shown to the official stenographer. Same also shown to Mr. Munter, the stenographer for the defendants, who was in court).

MR. MUNTER: It confirms his transcript, that phrase, if that is of any importance.

THE COURT: You mean the stenographic notes of that phrase.

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MR. CONTENT: You have ~~get~~ the transcript?

MR. MUNTER: I have. What Mr. Content read is a correct transcript.

MR. CONTENT: Now, step right over so that we can all see.

THE COURT: Now, you have marked that with a sort of a cross, with three intersecting lines.

MR. CONTENT: Suppose you put an "A" next to that, because we may have occasion to call attention to other passages.

Q Now, Mr. Caddell, will you see if the following paragraph occurring in the transcript you find in your stenographic notes, where she says, "How many people are going to refuse to conscript, and I say there are enough. I could count fifty thousand, and there are enough to be more, and they are not going to, only when they are conscripted. They will not register." Do you find that?

A I have found that, yes.

Q Will you place a mark "B" next to that?

THE COURT: Show that also to the official stenographer and to Mr. Munter.

(Same shown to the official stenographer and to Mr. Munter).

MR. HAWTHORNE: (the official stenographer) That is apparently correct.

Q In other words, did I read that transcript correctly,

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of the stenographic notes, in the passage indicated by this mark "B"?

MR. MUNTER: Yes.

MR. HAWTHORNE: Yes.

Q Now, reading in the same paragraph, Mr. Caddell,--
(At this point the official stenographer, Robert W. Hawthorne and the stenographer for the defendants, Paul Munter, were duly sworn).

THE COURT: Has the testimony which you have given heretofore in the shape of checking up on the stenographic notes of Mr. Randolph been true?

MR. HAWTHORNE: Yes.

THE COURT: And the same question with reference to what you have just done in regard to Mr. Caddell?

MR. HAWTHORNE: That is true also.

Q Now, reading in the same paragraph, skipping the next sentence, there appears this: "It will not be such an easy job, and it will compel the Government to sit up and take notice, and therefore we are going to support with all the means at our support, with money and publicity we are going to support all the men who will refuse to register, and who will refuse to fight"? Have you found that passage, Mr. Caddell?

A Yes, I just read it to you.

Q Now, will you place the mark "C" next to that?

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A Yes.

MR. CONTENT: Is that correct, Mr. Munter?

MR. MUNTER: Yes.

MR. CONTENT: Is that correct, Mr. Hawthorne?

MR. HAWTHORNE: Yes.

Q Did you look at the last passage marked "C", which I read?

A Yes.

to

Q Did it conform/your reading of the stenographic notes did your stenographic notes conform with the transcript of that statement, as I read it?

A Yes.

Q Now, Mr. Caddell, will you take your notes and a little further on, a couple of paragraphs further, I read this: "We will have a demonstration of all the people who will not be conscripted, and who will not register"?

THE COURT: Mark that "D".

Q Did you find that in your notes?

A I have just read that over with you.

Q But have you read it as I have read it?

A Yes, you read it accurately.

(Same examined by Mr. Munter and Mr. Hawthorne).

THE COURT: Do you agree with that, Mr. Hawthorne?

MR. HAWTHORNE: Yes, I do.

Q Now, in the same paragraph, skipping a sentence, do

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you find this: "I will say in conclusion that I for one am ready to take the consequences of every word I said, and am going to say on the stand I am taking. I am not afraid of prison". Do you find that, Mr. Caddell?

A Yes, I do.

THE COURT: Will you mark that "E".

THE WITNESS: Yes.

MR. CONTENT: Have you looked at that, Mr. Munter?

4/K MR. MUNTER: Yes.

MR. CONTENT: Have I read it accurately, according to your reading of the stenographic notes?

MR. MUNTER: Yes, you have.

MR. CONTENT: And you, Mr. Hawthorne, do you confirm Mr. Munter's statement?

MR. HAWTHORNE: Yes.

Q Now, I want you to look at the part of your notes where Miss Goldman in her speech refers to certain men in Congress or the Senate, "Friends, in Congress there are a few men in the Senate, Stone, LaFollette, etc.", do you find that in your minutes?

A I do.

Q Have you the name of Stone and LaFollette in the minutes?

A I have.

THE COURT: Mark that "F".

Q Were there any other names than those in Miss Goldman's

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speech?

A That is all I noted.

Q Do you think she mentioned some you did not know?

A I usually write proper names in longhand, which would take longer.

Q It is customary in stenography to write proper names in longhand?

A It is if you have time.

(Book shown to the Court).

MR. CONTENT: Will you note on the record the Court saw the names written in longhand.

THE COURT: Well, show it to the jury.

MR. CONTENT: Oh, yes, show it to the jury; excuse me.

Q Now, there was also a Russian name, Mr. Caddell --

MR. CONTENT: Show that to Mr. Hawthorne, to make the record complete, the names of Stone and LaFollette.
(Same shown to the official stenographer and to Mr. Munter).

MR. CONTENT: Mr. Hawthorne, do you find these words, "Friends, in Congress there are a few men in the Senate, Stone, LaFollette, etc., who wanted to keep America out of war"?

MR. HAWTHORNE: Yes.

MR. MUNTER: I also find them.

Q Toward the end of the speech, a little further along than anything I have heard, do you find these words, "You cannot stop

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the revolutionary spirit". Have you got them?

A I have it.

Q (reading) "You cannot stop the revolutionary spirit.

It may take as long as one year or two, you can't do it, because the spirit of revolution has a marvelous power of liberty.

It can break through bars, it can go through safely. It can come out stronger and braver. If there is any man in this hall that despairs, let's look across at Russia, let's look across at Breshnavosky, who was tortured by the Russian soldiers".

Have you that same spelling in your notes, B-r-e-s-h-n-a-vo-s-k-y?

A I have that spelling.

Q Will you please show that to Mr. Munter?

A Yes.

MR. MUNTER: Yes, I have seen it.

THE COURT: Make that mark "G".

MR. CONTENT: Show it to Mr. Hawthorne.

You have seen that same statement there, Mr. Munter?

MR. MUNTER: Yes.

MR. CONTENT: And Mr. Hawthorne, you have seen that same statement there?

MR. HAWTHORNE: Yes.

Q Was that the best you could get out of it?

A I did not make any inquiries, I wrote it as it sounded.

Q And that is the best you could do with it?

A Yes.

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Q You don't spell Russian?

A No, sir, not very well.

Q Have you any familiarity with Russian names?

A No.

Q Now, I will not call your attention to any other passages, but I think you testified that you made this transcript here, that is, Government's Exhibit No. 63, the next day after the meeting?

A Yes.

Q And you never compared it with Mr. Randolph's transcript?

A I did not.

Q You never compared your notes with his notes?

A No.

Q Your work was independent?

A My work was independent of his.

Q And you took down what you got to the best of your ability?

A Yes.

BY THE COURT:

Q I understood you to say you did not know Officer Randolph was in the hall?

A No, I did not know he was in the hall.

Q What is your position, I have missed that?

A Detective in the Police Department, assigned as stenographer.

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Q And like Mr. Randolph, you were assigned to duty by your superior officers?

A Yes, that is correct.

Q And I assume, on account of your knowledge of stenography, you attend mass meetings, do you?

A I do, when I am ordered.

Q When you are ordered, I mean.

A Yes.

Q And you take stenographic notes of such meetings as you are sent to for that purpose?

A Yes.

Q And were you used before by the Department for that purpose?

A Now, I have been used frequently. That is, when a large meeting has occurred, since conditions have started to exist, which did not exist before.

BY MR. CONTENT:

Q Have you taken any other speeches of Miss Goldman's since the No-Conscription League was started?

A I did.

Q Where?

A At Hunt's Point Palace.

Q June 11?

A June 11.

Q What other, Forward Hall?

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A Yes.

Q June 14?

A Yes.

Q Did you take Mr. Berkman's speech that night, too?

A I did.

Q Have you an independent recollection of that speech, the one in Forward Hall?

A Both, yes.

Q Do you recall whether Miss Goldman used this phrase, "I defy your law"?

A I distinctly recall it.

Q You recall that without reference to your notes?

A I do, yes.

Q Do you know whether Miss Goldman used this phrase, "Not in the wretched little court which is called your law of the United States"?

A I heard her say that.

Q Without consulting your notes?

A Yes.

Q Have you your notes of the Forward Hall meeting with you?

A I believe I have.

Q See if you can find that phrase.

~~MISS GOLDMAN: May I just at this moment ask whether our stenographer may take down just one sentence in his~~

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~~own notes, which was read from this?~~

~~MR. CONTENT: He can have this transcript.~~

~~THE COURT: You can take the book and the transcript, is that what you mean? Does he want the stenographic notes?~~

~~MISS GOLDMAN: I would like to have the stenographic notes, and also the transcript.~~

~~MR. CONTENT: There is some other stenography in this book, not connected with this matter, and at a later point in this.~~

~~THE COURT: Yes.~~

~~MR. CONTENT: Can we straighten this out please, this one thing?~~

~~THE COURT: Yes, straighten this out. I will give you plenty of opportunity. At the same time you can tell Mr. Caddell about where in the speech it is, in the transcript.~~

~~MR. CONTENT: It is on the third page of the transcript of her speech.~~

~~Q Have you that?~~

~~A Yes.~~

Q Now, in that same paragraph, in the middle of the paragraph, which I marked -- suppose you mark that "X", in that book. You find this, "You will say that it is a law. I defy your law." Do you find that?

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A Yes.

Q (reading) "You say it is a law. I defy your law."

Have you got that?

A Yes.

Q Now, at the end of that same paragraph, you find these words: "Not in the wretches little court which is called your law of the United States"?

A Yes.

THE COURT: What do you say, Mr. Munter?

MR. MUNTER: Yes, the transcript is correct.

THE COURT: As to both?

MR. MUNTER: Yes.

THE COURT: Show it to Mr. Hawthorne, to get the record straight.

MR. CONTENT: This really does not matter.

THE COURT: All right.

MR. CONTENT: It just goes to the credibility of the witness. This is ~~not~~ a fact which was confessed by Miss Goldman. This is a speech of June, 1914.

THE COURT: Oh, yes.

MR. CONTENT: You will recall the testimony of Mr. Barnitz, that Miss Goldman introduced, announced this in a previous meeting.

THE COURT: Yes.

Q Do you find towards the end of Miss Goldman's speech,

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about a page before the end, "The moment you enter into court you are like the Dante looking down into the Inferno; 'You who enter here, leave all hope behind'; that is again the American court"?

A Yes.

Q Did you look at that, is that correct?

A Yes, I have been reading the same.

Q "That is again the American Court"?

A Yes.

Q Is that what you have, "That is again the American court"?

A Yes, that is correct.

MR. MUNTER: That is correct.

MR. CONTENT: Mark that with a "Y".

That is all.

Q What is the average of the different speeches at which you have taken Miss Goldman since the campaign started, what would you say was the average words a minute, according to your opinion?

A The average has been very fair for me to take, so it never was more, I do not think, than 125 or 130 words a minute, I never had any difficulty in taking her.

Q No difficulty?

A No difficulty.

MISS GOLDMAN: I just wish to ask the Court for

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instructions; since this was given in as evidence, the Hunt's Point Palace notes, and the Forward Hall, because I would like to know would we be permitted to use part of that in our summing up, part of the notes of the stenographer.

MR. CONTENT: If Miss Goldman wants all this offered in evidence, I will be glad to offer it.

MISS GOLDMAN: I would like to have it in evidence.

MR. CONTENT: This is the Forward Hall. The Hunt's Point is already in evidence. Mr. Pickler took that, your own stenographer.

THE COURT: The Hunt's Point is entirely in evidence.

MISS GOLDMAN: It is.

MR. CONTENT: And it is uncontradicted so far.

THE COURT: Those are Mr. Pickler's notes, I understand?

MISS GOLDMAN: Yes.

THE COURT: Now, the Forward Hall is only in evidence to the extent that Mr. Content has offered it, but if you desire the whole thing can go in evidence.

MISS GOEDMAN: What I meant to ask is whether the notes of Mr. Pickler, who was ¹⁰³our engaged stenographer, I would like to know whether we can bring that in evidence.

THE COURT: As to Forward Hall?

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MR. CONTENT: He was not called, he was not interrogated as to Forward Hall.

THE COURT: Well, I will let you call him for that purpose.

MR. CONTENT: Is there any dispute about Forward Hall?

MISS GOLDMAN: There certainly is.

MR. CONTENT: I did not understand it that way.

THE COURT: Why, certainly you may call him.

MR. CONTENT: May I settle it this way: There is no dispute about Mr. Pickler's notes as to the Hunt's Point Palace.

MISS GOLDMAN: None whatsoever.

MR. CONTENT: They are before the Court, and all of that is in evidence, as that transcript is in evidence.

MISS GOLDMAN: Certainly.

MR. CONTENT: Now, these transcripts of Randolph and Caddell, as to the May 18th meeting, any dispute that you had ~~any~~ stenographer there?

MISS GOLDMAN: No.

MR. CONTENT: So that you are bound by that testimony?

MISS GOLDMAN: Unfortunately, yes.

MR. CONTENT: So that the only other meeting I quoted from is the meeting at Hunt's Point?

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THE COURT: No, Forward Hall.

MR. CONTENT: Yes, Forward Hall, excuse me.

I have not offered it all in evidence, but I will be very glad to.

MISS GOLDMAN: Well, I just wish --

THE COURT: This is on your own rebuttal. You have a right to call Mr. Pickler in regard to the Forward Hall minutes. If there is any point, you can withdraw Mr. Caddell, while you have the right to call him.

MISS GOLDMAN: May Mr. Munter look at the shorthand notes of Mr. Caddell?

THE COURT: Yes.

MR. CONTENT: Yes, I will call another witness in the meantime.

BY MR. BERKMAN:

Q You are a policeman and detective?

A From the civil service, appointed as policeman.

Q Are you a member of the Police Department?

A I am?

~~MR. BERKMAN: That is all.~~

BY MR. CONTENT:

Q What were you going to say?

A Simply that the Civil Service appointed me to the Police Department.

Q And you have been assigned to the Detective Bureau?

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A Yes, if you look up the Detective Bureau, you can find it.

Q In other words, your civil service rating is patrolman?

A Yes.

Q And that is your rank?

A Yes.

Q And the fact that you are a detective is simply the particular service that you are assigned to?

A Yes.

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W I L L I A M J . F I N E R T Y , a witness called in
rebuttal on behalf of the Government, being first duly
sworn, testified as follows:

DIRECT EXAMINATION BY MR. CONTENT:

Q You are official stenographer of the United States
District Court for the Southern District of New York?

A Yes.

Q And do you hold the contract with the Department of
Justice for all the stenographic work in the criminal branch
of the District Court of the United States for the Southern
District of New York?

A Yes.

Q How long have you been a shorthand reporter?

A Twenty years.

Q Did you attend a meeting held in the Hunt's Point
Palace, in the Borough of the Bronx, New York City, on June
4, 1917?

A Yes.

Q Did you take that evening the speech of Miss Emma
Goldman?

A Yes.

Q Are you able to state what your opinion is as to the
average of words a minute of the speech of Miss Goldman in
the course of her address on that evening?

A Yes.

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Q What would be your opinion as to her average?

A Approximately 125 words a minute.

Q Now, sometimes she goes a little more quickly, some times a little more slowly?

A Yes.

Q But you think that is a fair average?

A Yes.

Q Is it an easy matter to take Miss Goldman's speeches or is it difficult?

A Oh, it is neither difficult nor easy.

Q Well, I mean is she a clear speaker?

A Good clear voice; I had no difficulty.

Q Did she enunciate distinctly?

A Yes.

Q Is that the only occasion on which you took her speech?

A Yes.

~~MR. CONTENT: That is all.~~

THE COURT: Any questions.

MR. BERKMAN: No.

~~MR. CONTENT: The Government rests.~~

THE COURT: Is Mr. Randolph here?

(Mr. Randolph came forward).

THE COURT: Mr. Randolph, have you got your note book with you?

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MR. CONTENT: It has been marked for identification already, hasn't it?

MR. RANDOLPH: Yes.

THE COURT: That is all I wanted to know. I only wanted to know whether the notebook was here.

~~MR. CONTENT: The only thing I asked him if there was anything about that gas speech, and he said no, there was not. These were already marked for identification. I will be glad to offer it in evidence, before resting.~~

~~THE COURT: Yes.~~

144 { MR. CONTENT: I offer Exhibit 30 for identification in evidence.

THE COURT: Yes, I think it should be.

(Marked in evidence as Government's Exhibit 30).

~~THE COURT: That is all I wanted to know.~~

MR. CONTENT: You will recall Mr. Randolph wrote on a separate sheet certain symbols in stenography.

THE COURT: Yes. I want that book to go to the jury, to see whether the signs compare with each other.

MR. CONTENT: Well, there are some slight differences. Sometimes they make an "N" hook instead of an "N" stroke.

Miss Goldman wants this whole paragraph read, so I will read it, instead of the part I read before (indi-

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cating).

~~THE COURT:~~ All right.

(Same read by Mr. Content).

R O B E R T W . H A W T H O R N E , a witness in
behalf of the Government, having been previously duly
sworn, testified as follows:

DIRECT EXAMINATION BY MR. CONTENT:

Q Although two persons may use the Pitman system of
stenography, is there some difference in making the symbols?

A Yes, according to the individual.

Q Will you just explain to the jury what that difference is

A I would like to point it out in the two notebooks of
Mr. Randolph and Mr. Caddell.

Q Mr. Hawthorne, will you explain to the jury the differ-
ence in the ending of the symbol "N" in stenography?

A Well, the difference --

Q Speak a little louder, please.

A The difference is illustrated in the stenographic
notes of Mr. Randolph and Mr. Caddell, perhaps better than I
can explain it. In one case, in the case of Mr. Randolph's
notes, he uses the "N" stroke in writing the word "violence",
and in the case of Mr. Caddell's notes, he uses what we call
the "N" hook. That is the only difference in the two words.
It can be written though, either way, depending entirely on

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the stenographer. Some men prefer to make the stroke, and some men prefer to make the short hook.

THE COURT: That is quite a usual difference among stenographers, depending upon the individual?

THE WITNESS: Absolutely.

Q And that would be the same thing in the Isaac Pitman system?

A Yes, sir.

Q Mr. Caddell and Mr. Randolph use the same system?

A The same basic system.

Q And would your explanation be, for example, that some men would connect the word with a downward stroke?

A In other words, shorthand writers show their individuality just as longhand writers do.

Q But you have no difficulty, or had no difficulty at the time of these different phrases, when Mr. Caddell's stenographic notes were called to your attention, in reading his notes as I read them from the transcript?

A Not at all.

THE COURT: Any questions?

MR. BERKMAN: No.

MR. CONTENT: If your Honor please, the Government rests.

MR. BERKMAN: The defendants rested long ago.

~~X THE COURT: You understand that means the testimony X~~

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~~is ended?~~

~~MR. BERKMAN: Yes.~~

THE COURT: Do you desire to make a motion to dismiss, in order to safeguard your case.

MR. BERKMAN: Certainly, I make a motion to dismiss the case, as the Government has not brought the least evidence to prove the charge that the defendants advised and urged people not to register. All the testimony in the case proves that the defendants spoke mostly about conscription, and that there was a special statement by Miss Emma Goldman, sent from Springfield, telling the people implicitly that she will not advise them not to register, that she would give them no definite advice on that matter, and that she leaves it to each one to use his own judgment in this matter; and for that reason I claim, or the defense claims, the Government, instead of proving beyond a reasonable doubt the guilt of the defendants, did not make out any case at all against them; that the charge of conspiring the Government don't even begin to prove; no conspiracy has been proven; it has not been proven that either of the defendants advised anyone not to register; as a matter of fact it has been proven that one defendant or both defendants did advise people to act according to their own conscience and refused to advise them not to register; and on all these grounds and many

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others which probably it is not necessary to mention just now, we ask that the case be dismissed in the interests of justice.

THE COURT: May the record show that the motion is made to dismiss the indictment on the ground that the indictment does not set forth a crime; secondly, on the ground that the Government has failed to sustain the allegations of the indictment against the defendants; and you may also note that the defendants move to dismiss the indictment on the further ground that the act in question, which is claimed to have been violated, is unconstitutional.

The Court

denied the motion, and an exception is reserved to each defendant.

MR. BERKMAN: Exception.

MR. CONTENT: You mean the exception to have been made on behalf of both defendants?

THE COURT: Both defendants.

MISS GOLDMAN: Yes.

May I get on the record just now, I was not prepared to state my basis for dismissal, and I want to know if I would have to do it now?

THE COURT: If you desire to make a more formal motion on Monday, you may do so, prior to the summing up.

MISS GOLDMAN: All right.

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THE COURT: I only wanted to be sure I would not forget to note the motion on your behalf.

~~Now, that closes the testimony. Have you consulted at all as to how long you want to sum up?~~

MR. CONTENT: I have not spoken to anyone.

THE COURT: I mean with the defendants.

MR. CONTENT: If agreeable to the Court, I shall try to confine myself to half an hour. I will not be bound by five minutes or so. I should think thirty-five minutes.

THE COURT: Well, I am trying to meet your suggestion as to how long you would like.

MR. BERKMAN: Well, we are not practised --how long do you -- how much will we have?

MR. CONTENT: I suggested that I thought I could confine myself to thirty or thirty-five minutes.

MR. BERKMAN: Well, I suppose it is a matter of experience.

THE COURT: I do not propose to confine you to any limited time. Just give me a notion how long you would like.

MR. BERKMAN: Well, we thought we would have Sunday to work up our summation. I have no idea just how much we require.

THE COURT: Then, you can fix that on Monday morning.

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MR. BERKMAN: Monday morning, first thing, we will tell you.

THE COURT: I will give both sides any fair and reasonable time to sum up. I am not going to hold anybody down to a matter of a few minutes, one way or another. You can have whatever time you think will be necessary for you to present the case in a manner satisfactory to yourselves. You can let me know Monday, and I will accord to the defendants a given amount of time, after they inform me on Monday, and divide the time between themselves to suit their own convenience, and then I will accord the time to the District Attorney. The practice always is that each side has the same amount of time, and there being nothing further, the testimony being closed, we will reassemble on Monday morning at 10 o'clock.

(Whereupon the trial was adjourned to Monday, July 9, 1917, at 10 o'clock A.M.)

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New York, Monday, July 9th, 1917. [

Trial resumed pursuant to adjournment.

P r e s e n t :

THE COURT, COUNSEL AND JURY AS BEFORE.

~~MISS GOLDMAN: Your Honor, is there any special reason why the friends of the defense are kept out as long as there is room in the court?~~

~~THE COURT: The control of the courtroom in such matter is entirely in the hands of the United States Marshal. I assume that he is exercising his discretion appropriately.~~

~~MISS GOLDMAN: We certainly protest against the discrimination.~~

~~THE COURT: The Court has no knowledge of discrimination. How much time do you desire?~~

~~MR. BERKMAN: I think the defense will require about three hours altogether. Maybe less.~~

~~THE COURT: Well, endeavor to finish the defense's summing up by 1:15, if possible.~~

~~MR. BERKMAN: Yes.~~

~~MR. CONTENT: I am glad to say the Government will not require anything near as long as that.~~

(MR. Berkman summed up to the jury on behalf of the defendants.)

(Miss Goldman summed up to the jury on behalf of the defendants.)

(Mr. Content summed up to the jury on behalf of the Government.)

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(CHARGE OF THE COURT:

[(Mayer, J.)

Gentlemen of the Jury:

(It is with real sincerity that I express to you my appreciation of the patience that you have displayed throughout this trial, and of the very close and intelligent attention which you have given to the testimony as it was adduced, and to the summing up of the defendants, and of the counsel for the Government.

It is extremely important to concentrate your minds upon the particular question here involved, arising out of the indictment of these two defendants. They are charged by the Grand Jury with an offense which I shall more technically define later, which in effect is this, that they have knowingly and wilfully counselled, abetted and aided persons of the so-called draft age, to violate a statute of the United States, against the peace and dignity of the United States.

Many things, as happens in almost every case, have crept into the case which have a collateral rather than a direct aspect. It was suggested by one of the defendants in his summing up that there had been brought into the case references to anarchism and the Ferrer

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school and violence, by virtue of the action of the prosecuting attorney. The fact is, as you all know, that those who first mentioned anarchy and anarchism were the defendants themselves; that the reference to the doctrines of Ferrer were elicited by questions put by them, and that these matters came into the case in great measure because of a question of credibility, to which I shall later with some particularity refer.

This is not a trial of political principles. This cannot be turned into a political or State trial in the political sense. You are not to be misled by any effort to digress your mind from the real issue, which simply is, whether these defendants are guilty or not guilty of the crime charged in the indictment.

This is not a question of free speech. Free speech is guaranteed to us under the Constitution. No American worthy of the name believes in else than free speech; but free speech means, not license, not counseling disobedience of the law. Free speech means that frank, free, full and orderly expression which every man or woman in the land, citizen or alien, may engage in, in lawful and orderly fashion; and that free speech is guaranteed to us, and no court would deny it to anyone.

Prior to the enactment of the so-called Selective Service Law, aptly designated such by the President,

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on the 18th day of May, 1917, any person could discuss in the fullest manner possible the provisions of pending legislation, and any person in discussing that legislation could use even the most vehement language and present any and all arguments that seemed to him or to her best; but when that discussion became embodied into law, then it became the duty of every person living under this Government to obey that law. Individual opinion might still be fully expressed, and proper agitation for the repeal of such a law continue; but the law itself thenceforth must be obeyed.

This is a republic founded upon principles of democracy. It can remain a republic only so long as the law is obeyed. Obedience to the law is the fundamental basis of American life. Once that basis disappears or is destroyed, the whole fabric is destroyed, and the foundation upon which a Government of free men rests, disappears.

What was the method which the framers of the Constitution devised with an extraordinary and prophetic foresight? They had just won their freedom after long years of struggle, and they realized that the republic which they were founding must rest upon law, that that law must be the expression of the will of the people, through duly organized methods, and through orderly

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channels. They devised a system which has stood the test now of well beyond a century. It was a system that was to record not merely the passing will of the majority, but it was a system that would be fair to the minority; and therefore, with the ¹⁴⁶greatest measure of care, they devised what the political philosophers have called a system of checks and balances, by which they made the three great departments of government independent of each other. A Law cannot become a law by the mere passage of the Act of Congress. Before it becomes a law it must have the approval of the second branch of the government, the Executive. And even then, if the Constitution has been violated, or has not been accorded with, any person in the land has the opportunity, in lawful fashion, of attacking that law; and the Courts have the power to declare it unconstitutional. And the courts have so declared on many occasions, fearlessly and courageously, laws enacted in the passing passion of the day, to be unconstitutional.

So that you see we have a very elaborate and a very careful system by which before any thought becomes con-creted into law, that law is subjected to discussion in and outside the halls of Congress, and must then have the approval of the Executive, and must then stand the test of an appropriate court inquiry.

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With such an elaborate system in the minds and known to Congress, Congress enacted this Section 37 of the United States Criminal Code, phrased in very simple language, that any man may understand, that if two or more persons conspire either to commit any offense against the United States, or to defraud the United States in any manner, or for any purpose, and one or more of such parties do any act to effect the object of the conspiracy, each of the parties to that conspiracy shall be fined not more than Ten Thousand Dollars (\$10,000) or imprisoned not more than two years, or both.

On the 18th day of May, 1917, this so-called Selective Service Act became a law. That act provided for a general and comprehensive scheme for calling upon men between twenty-one and thirty years of age, to serve wherever the Government might assign them, whether in the Army or in the Navy, or in industrial or in agricultural pursuits. It was passed, as you know, after elaborate discussion, and when passed, under our system of representative government, it represented the will of the people under our system, and became the law.

Now, as a necessary part of that whole scheme of law, and as a section of that statute, not a separate statute, but a part of the whole scheme, Congress of course saw

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the need of having a register of those who became or would be within those ages that I have referred to. It was necessary to find out the name and address of every person throughout the country between the ages of twenty-one and thirty, so that later, by a further proclamation of the President, a further carrying out of the statute, the Government could determine whom to call upon, and in what capacity; and, as you know, elaborate provisions are to be found in that statute in respect of the exemptions; and all their steps were to the end, from the point of view of Congress, of enacting a statute that would be as equal and as fair as human statutes can be in the carrying out of this important measure which received paramount attention from Congress and the President.

Now what does that Section 5 say? That all male persons between the ages of twenty-one and thirty, both inclusive, shall be subject to registration in accordance with the regulations to be prescribed by the President, and upon the proclamation of the President, or other public notice given by him or by his direction, stating the time and place of such registration, it shall be the duty of all persons of the designated ages, except officers and enlisted men in the regular army, the navy and the National Guard, and the naval militia while in the service of the United States, to present themselves

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for and submit to registration under the provisions of this act, and that every such person shall be deemed to have notice of the requirements of this act, upon the publication of such a proclamation, or other notice as aforesaid, given by the President, or by his direction; and any person who shall wilfully fail or refuse to present himself for registration, or to submit thereto, as herein provided, shall be guilty of a misdemeanor, and on conviction shall be punished as the statute provides.

Now, there is another provision of the United States statutes, known as Section 333, of the United States Criminal Code, which also is simply worded and easy to understand: "Whoever directly commits any act constituting an offense defined in any law of the United States, or aids, abets, counsels, commands, induces or procures its commission, is a principal."

Now, having in mind these three statutes, let us look at the indictment, eliminating from it as much of the purely legal language as is possible: The grand Jurors of the United States of America, within and for the District aforesaid, on their oaths, present, that on the 18th day of May, 1917, the President of the United States of America duly issued his proclamation, as provided by the

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Act of Congress, approved May 18th, 1917, to the effect that the time and place of such registration should be between 7 A.M. and 9 P.M. on the 5th day of June, 1917, at the registration place in the precinct wherein those people that register may have their permanent homes; that those who shall have attained their twenty-first birthday, and who shall not have attained their thirty-first birthday on or before the day therein named, are required to register.

MP So, therefore, on the 18th day of May, by virtue of that Act, it became the duty of every person, citizen or alien, every male person in the United States, to register as the President's proclamation indicated, on the 5th day of June, every person who was between these ages of twenty-one and thirty.

And then the indictment continues: And the Grand Jurors aforesaid, on their oaths aforesaid, do further present that Emma Goldman and Alexander Berkman on the 18th day of May, 1917, and on each and every day thereafter, up to and including the date of the filing of this indictment, at the Southern District of New York, and within the jurisdiction of this Court, unlawfully, willfully, knowingly, and feloniously did conspire together, and agree between themselves and with divers other per-

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sons whose names are to the Grand Jurors unknown, to commit an offense against the United States, that is to say, said defendants unlawfully, wilfully, knowingly and feloniously did conspire together and agree between themselves and with the said divers persons whose names are to the Grand Jury unknown, that divers persons who were to the Grand Jurors unknown, same being male persons between the ages of twenty-one and thirty, both inclusive, being subject to registration, should knowingly and wilfully fail to register, and fail and refuse to present themselves for registration, and submit thereto, as provided by the aforementioned Act of Congress of May 18, 1917. And the Grand Jurors aforesaid, on their oaths aforesaid, do further present that the said defendants, Emma Goldman and Alexander Berkman, unlawfully, wilfully, knowingly and feloniously did conspire together and agree between themselves that the said divers persons whose names are to the Grand Jurors unknown, to aid, abet, counsel, command, induce and procure divers persons whose names are to the Grand Jurors unknown, the same being male persons between the ages of twenty-one and thirty, both inclusive, being subject to registration in accordance with the regulations to be prescribed by the President, and upon proclamation by the President, wilfully, and so forth, not to register.

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And then the indictment proceeds to state there-
after certain overt acts of the defendants.

Now, the crime of conspiracy requires two elements.
One is the agreement, the other is the outward act, which
in law is spoken of as the overt act. The word conspiracy
means a confederation to effect an unlawful object, even
by lawful means, or a lawful object by unlawful means.

The essence of conspiracy is the agreement or federa-
tion. To constitute a conspiracy, it is not necessary
that the two or more persons shall meet together, and enter
into an explicit or formal agreement. It is not necessary
that they should by direct words, or in writing, state
what the unlawful plan, or the unlawful means are to be,
nor need they set forth at length the details thereof or
the methods by which the unlawful combination is to be
made effective. It is sufficient if two or more persons
in any manner, or through the contrivance of either,
tacitly come to a mutual understanding to accomplish
the thing or unlawful design. Where an unlawful thing
is sought to be effected, and two or more persons actuated
by the common purpose of accomplishing that thing, work
together in any way in furtherance of the unlawful
scheme, every one of said persons becomes a member of
the conspiracy. The conspiracy is formed and the founda-

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tion of the crime is laid when tacitly or expressly the agreement is entered into to accomplish a result that the law forbids.

The statute, however, requires not only that the actual agreement shall have been made, but that at least one of the parties to said unlawful agreement shall do some act to effect the object of the conspiracy; and therefore to warrant a conviction (for conspiracy it must be found, first, that there was the agreement, which was conspiracy, and, second, that at least one of the conspirators performed some act to effectuate the object they had in view.

If that last essential is set forth, then all the persons who made the agreement, or who entered into it, no matter after it was made, are members of the conspiracy, no matter whether they all performed acts to effectuate its object, or whether they each performed all of the acts to effectuate its object.

Now, put into simple language, that means simply this: That two persons may enter into an unlawful agreement, and yet neither of them may ever do anything beyond that; and that is the reason that the law requires that there shall be some outward act, but there need be only one act to constitute the overt act. Many acts may

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be proved, many acts may not be proved, but if you once conclude that the agreement existed, then one act, whether it is lawful or unlawful in itself, so far as it is in furtherance of the agreement, is sufficient to sustain an indictment for conspiracy, assuming always that these acts and the agreement are proved beyond a reasonable doubt.

You have had such presentation of the testimony, and you have listened to it so closely, that I shall not at this late hour review at any length what you have heard. I shall briefly refer only to certain salient features. What I do not refer to does not mean that I consider that of no importance, but it simply means that I have a desire at this hour merely to give you a very brief outline insofar as it will aid you in understanding the law of the case.

I may say here in passing that, as you well know, the jury is the judge of the facts, and in that domain is supreme, while from the Judge you must take the law, and be guided by his instructions as to the law. I may further say that if anything has been said by either the counsel for the Government or the defendants, or myself, that does not agree with your recollection as to the testimony, you will take your recollection and not theirs

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or mine.

On the 9th day of May, 1917, if my recollection is right, there was the first meeting of this No-Conscription League. That was followed by the meeting of May 18th, 1917, at the Harlem River Casino. The Government had a legal right to introduce evidence of that meeting, whether the acts there performed constitute in law an overt act, or not. The Government had the right to lay before you by the testimony of witnesses, what took place at that meeting, in order to disclose the intent of the defendants.

What is in a man's mind is discoverable only by what he says and what he does; and therefore it was entirely proper, as a matter of law, that everything that took place at that meeting should be presented to you.

Since the point was raised this morning as to whether or not the President had affixed his signature to the Act in question at the time that the defendant Emma Goldman was speaking, I have endeavored to ascertain when, as a matter of fact, that law was signed, or that Act was signed by the President, because it has been my purpose to have the trial conducted in strict accordance with law, and as fairly as I knew how. I have been informed by one of the representatives of a newspaper,

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that word was received by the New York newspapers, or at any rate by his, that the Act became a law at twelve minutes after ten that night.

I have also caused to be inquired by long distance telephone from the State Department, when the Act was signed, and the information from there is not sufficiently clear to enable me to say that it was signed prior to the time that the defendant Emma Goldman was speaking; and therefore, I think it but just to say that that doubt must be resolved in favor of the defendants on the question of whether or not that was an overt act; and I will charge you, therefore, that that was not an overt act within the meaning of the statute, because of the doubt of proof as to the exact time when the Act was signed.

You may, however, consider, as I said before, everything which took place at that meeting, as indicating to you the purpose and intent of the defendants; and especially in connection with the subsequent acts either by way of meetings, speeches, or writings, which are here in evidence.

Much time was spent in regard to an expression used in that speech, according to the testimony of the two stenographers, or the two patrolmen assigned to

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stenographic work. What has been suggested or what has been testified to about violence was not germane to the case, and it becomes my duty, therefore, to repeat, perhaps a little more carefully, what I said to you in the course of the trial. The officer Randolph went there, as you know, pursuant to the orders of his superior officer, for the purpose of making an exact stenographic report of what took place at that meeting,-- so far as, in any event, Miss Goldman's speech was concerned.

The stenographer Caddell, --Randolph and Caddell not knowing each other were present, -- was sent there with a similar view. In determining the credibility of the witnesses, you will apply, of course, the same good common sense that you do in the ordinary affairs of your lives. You may see the manner in which a man testifies, or a woman testifies, you may see how a witness acted upon the stand, you may ask yourselves in respect to these two men, sworn officers of the law, whether or not they would deliberately perjure themselves on the stand, or whether they would insert into their stenographic minutes and their transcript of those minutes, foreign matter utterly different from what was said. The report of Randolph was attacked by the defendants, and thereupon defendants

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produced certain witnesses to prove that from previous acts of the defendant Emma Goldman, her expressions as to violence had been contrary to that which was reported by Randolph. In addition to that there were read in evidence by the defendants, extracts from various articles. The defendants having introduced this evidence on the credibility of Randolph, this evidence of a collateral character, in addition to the direct evidence of those witnesses who said they had not heard that expression, it became as a matter of law, perfectly sound and proper to then permit the introduction of evidence showing any expressions of opinion upon this subject by either of the defendants, ~~and~~ any facts or circumstances whereby you could or could not infer, as you deemed best, that one or both of these defendants approved or disapproved certain ~~expressions~~. It was under these circumstances that the Mother Earth of July 1914 came into the case. That paper being published, as appears from the paper itself, by the defendant Emma Goldman, at a time when the defendant Alexander Berkman was the editor, and a bundle of these papers some three years later being found in the office of the defendant Emma Goldman, it is for you to say on all the evidence in the case, what, as a result of ¹⁴⁹ it all,

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the credibility of the witnesses who were produced is in regard to this particular point. The defendants, as the District Attorney has said, and as they have said, are not on trial for violence, and the matter as I see it now, assumed an amount of importance in time which from my point of view it was not entitled to, although you take your point of view and not mine when I express an opinion of that character.

The real question is whether Randolph and Caddell correctly transcribed the speech of the defendant Emma Goldman, and told the truth in regard to all the speech, and especially in regard to those portions of the speech having to do with registration.

Now we will pass from that to the meeting of May 23rd, held at Miss Goldman's flat, at which the defendant Alexander Berkman presided. You will take the letter, Exhibit L, to the jury room, and in connection with all the facts and circumstances you will determine the meaning of that letter.

The next meeting is the meeting on the eve of registration, the 4th day of June, announced by the handbills to take place at that date. That meeting was held at the Hunt's Point Palace. I am not referring to the details of these meetings, because they have been fully

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covered, and you are familiar with them, and there is no use taking up your time.

And then, in addition to that, you will recall, and may read, if you so desire, what was published in Mother Earth and what was published in The Blast, and what was said at Forward Hall by one or the other of the defendants, as the case may be.

The expression, "We will defy your laws", or whatever the exact wording was, used at Forward Hall, may be taken as some light upon the intent of the defendants.

Now words are elusive. It is sometimes very difficult to understand a phrase standing by itself, and therefore it is that when you read an article of any character, you should read the context, and if any person has done any acts in connection with that article, you analyze those acts in order to understand what the words mean.

Words are not always direct. Serious things may be accomplished by the use of words subtly and insidiously. A man may not, in so many words, advise, aid or abet another to do an act, yet he may so frame his language that the inference to be derived from it is clear.

In reading the language in regard to how the word "conscription" is used, you have the right to consider

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the occasion when used, the circumstances when and you have a further right in that connection to remember that registration under the Act, is the first necessary step prior to so-called draft or conscription.

Now, you can take all of this matter, and you can determine what the various words mean with the view of ultimately determining whether there was the conspiracy charged, to counsel, aid and abet and so forth, persons to violate the statute; and if you find, outside of the meeting of May 18th, in their speeches, or in the publications known as Mother Earth and The Blast, or in any of the writings or sayings of the defendants subsequent to May 18th, that there was counsel or advice or aiding or abetting other persons to violate ~~on advice~~ the statute in question, and you find that beyond a reasonable doubt, then you will find the defendants guilty; because every one of these writings, and every one of these speeches, made after the 18th of May, was an overt act. And you will remember what I said, that ^{if} you once find the agreement to have been made, it is sufficient under the statute that there shall be one overt act.

Every defendant is presumed innocent until a jury finds him or her guilty, beyond a reasonable doubt. If

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the evidence justifies, in your judgment, that the accused are guilty, so as to exclude every other reasonable conclusion, you should declare them to be guilty. If you can reconcile the evidence before you with any reasonable hypothesis to sustain their innocence, then you will find the defendants not guilty. This old established rule does not permit you, however, a mere surmise or guess or conjecture that the accused or any of them are possibly innocent. You cannot base your judgment upon a merciful hope, for a reasonable doubt, as the words imply, is only such a doubt as will be entertained by a reasonable man after an impartial and thorough review of all the evidence and all the facts in the case, brought to his attention.

Start Of course a conspiracy requires two persons, so your verdict must be either that the defendants, both of them, are guilty, or that the defendants, both of them, are not guilty.

I may only say one thing more concerning which, perhaps, there can be little difference of opinion. Whatever may have been the fate of persons of historic note, whether the acts that they did were within or without the law, is quite immaterial in this case. This is a matter of law and order. The law must be

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obeyed. We are not dealing with a discussion of abstract principles. We are not concerned with the views of the defendants, whether they are right or wrong, on matters foreign to this case. We are only concerned with the evidence in the case. If you believe them guilty beyond a reasonable doubt, it is a matter of no concern to you, nor to the Court, what their views may be. If you believe them not guilty, then equally are we not concerned with their political views.

150 I repeat in conclusion, and lay it upon you most earnestly, that this is not a trial of free speech. This is an indictment for crime; and the duty which rests upon you is to determine on the evidence whether or not the defendants are guilty of the crime charged in the indictment. Much has been said by the defendants, and by the counsel for the Government, as to what the country may think of your verdict. Gentlemen, we are within the solemn confines of the courtroom. All the country wants from you is a just verdict on the evidence, a verdict that I know you will render, because you have given such close attention, and confining yourself to that it is your duty by deliberate consideration to arrive at a conclusion on the evidence, not to permit yourselves, as I am sure you will not, to be diverted into any attempt

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to make it seem as though any person was here on trial for the expression of any opinion. The sole question is, has the Government proven the guilt of the defendants beyond a reasonable doubt? If so, your verdict is "Guilty"; if not, your verdict is "Not Guilty".

Any requests to charge? Any exceptions?

MR. CONTENT: No requests from the Government.

MR. BERKMAN: I do not know what the procedure is about taking exceptions.

THE COURT: You can take any exceptions now. You must take them now.

MR. BERKMAN: In particular, or general?

THE COURT: You must take particular exceptions. You may call the Court's attention to any error made.

MR. BERKMAN: No particular exceptions, but, if permissible, just may I have a general exception?

THE COURT: You may. If there is anything, -- give me an idea of what you want on the record.

MR. BERKMAN: Just as a matter of record.

THE COURT: As a matter of record, you say you want a general exception.

MR. BERKMAN: Yes.

THE COURT: I will give it.

MISS GOLDMAN: As a point of instruction, I want to

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know, I would like to ask your Honor to instruct the jury that as long as the articles are in evidence of July, 1914, representing the report of meetings, which is a legitimate method common among all large publications to reprint or report things that have happened in the way of news, that that shall be ruled out as evidence.

THE COURT: I get your point. I am glad you called my attention to it. The defendants are not responsible for the utterances of persons other than themselves, in the July, 1914 meeting, as such. One article that was called ^{"a change"} ~~the~~ "Guage of Class", written by the defendant, was not a speech made at that meeting. You may take into consideration that papers publish speeches. You must also take into consideration whether from the relations of the defendants with these people and the finding of this bundle of papers in the Mother Earth office at the time of the arrest, whether the defendants approved the sentiments in those articles, all on the question of credibility.

MR. BERKMAN: Two requests for the defendants: First, that the Court charge the jury that even if they believed one or both of the defendants committed an overt act, or had told people not to register, but not as a result of an agreement or a conspiracy, then the jury

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must acquit.

THE COURT: Certainly, that is quite right. If there is no agreement, there cannot be a conviction.

MR. BERKMAN: And the second one, we ask the Court to charge that all jurymen must be convinced beyond a reasonable doubt before they can find the defendants guilty.

THE COURT: I so charge.

MR. BERKMAN: That even if one is not convinced of their guilt beyond a reasonable doubt, he must vote for their acquittal.

THE COURT: My charge is that the entire jury must bring in their verdict, and the jury must be satisfied beyond a reasonable doubt.

MR. CONTENT: Will you just make this one point there, as long as it is raised: That your Honor charged that one overt act was enough; will you add there one overt act by one conspirator?

THE COURT: Yes, one overt act by one conspirator is enough. If you find the agreement, then the acts and words of one conspirator are admissible as against the other, and binding on the other.

(The marshal was then sworn in charge of the jury, and the jury retired to the jury room).

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New York, July 9, 1917, 6 P.M.

(The jury returned a verdict of guilty at 6 P. M.)

MISS GOLDMAN: We move to set aside the verdict as being against the weight of evidence. I think that is the way you move to set a verdict aside.

THE COURT: The stenographer may note that the motion is made, with all formalities, to cover all grounds upon which a motion to set aside a verdict may be made.

MISS GOLDMAN: I wish to ask that sentence be deferred for a few days and that bail be continued, that the present bail be continued meantime, because we wish to arrange our affairs, which we have had no time or opportunity to do during the trial.

THE COURT: The motion to set the verdict aside is denied.

MR. CONTENT: The Government moves for sentence. And the Government feels, in a case of public importance like this case, that the judgment and mandate of the Court should be speedily handed down.

MISS GOLDMAN: Well, the motion of setting the verdict aside is denied. We have an exception, of course.

THE COURT: The motion in regard to the bail is denied. Application for that may be made under the practice of this Court to the Circuit Court of Appeals.

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MR. BERKMAN: The motion to defer sentence is denied?

THE COURT: Yes.

MR. BERKMAN: Exception.

~~THE COURT: The Clerk will take the pedigree.~~

THE CLERK: Alexander Berkman to the bar. Where were you born, sir?

MR. BERKMAN: Russia.

THE CLERK: When?

MR. BERKMAN: Well, about forty-eight years ago, in 1869.

THE CLERK: Do you know the town in Russia where you were born?

MR. BERKMAN: St. Petersburg.

THE CLERK: Are you married or single?

MR. BERKMAN: Single.

THE CLERK: Are your parents living?

MR. BERKMAN: No.

THE CLERK: Are you a citizen of the United States?

MR. BERKMAN: No.

THE CLERK: Miss Emma Goldman to the bar. Where were you born?

MISS GOLDMAN: Russia.

THE CLERK: When?

MISS GOLDMAN: 1869. X

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~~THE CLERK: Where, in Russia?~~

~~MISS GOLDMAN: Town of Kovno.~~

~~THE CLERK: Are you married or single?~~

~~MISS GOLDMAN: Single.~~

~~THE CLERK: Parents living?~~

~~MISS GOLDMAN: Wh Mother living.~~

~~THE CLERK: Where, may I ask?~~

~~MISS GOLDMAN: Rochester, New York.~~

~~THE CLERK: Are you a citizen of the United States?~~

~~MISS GOLDMAN: Not by my own application; from my
father.~~

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THE CLERK: Alexander Berkman to the bar. Have you any reason why the sentence of the Court should not now be pronounced upon you?

MR. BERKMAN: Well, I think it is only fair to suspend sentence, to give us a chance first of all to arrange matters. And the fundamental reason that sentence should not here be pronounced is that we are innocent of the charge, and we are convicted as anarchists, out of prejudice and bitterness. That is all.

THE CLERK: Miss Goldman, have you anything to say why sentence should not be imposed?

MISS GOLDMAN: I wish to say that the very fact that we were refused to have sentence deferred for several days to arrange our affairs, proves that the Court is prejudiced because we are anarchists; because we were frank, and because we stood by our opinions, and because we are going to stand by our opinions.

MR. CONTENT: I have very little to say, your Honor. Both the Court and the jury were fully enlightened as to what the defendants did under the particular acts upon which they were charged. However, I should feel derelict in my duty to the Court if I did not inform the Court that in 1892, the defendant Alexander Berkman was convicted ^{of} attempted murder in Pittsburgh, --

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MR. BERKMAN: I object.

MR. CONTENT: I have a right to say this.

THE COURT: He had no right to bring this to the Court's attention during the trial. He has a right to bring any matter to the Court's attention before sentence is pronounced.

MR. CONTENT: I beg to bring to the Court's attention that the defendant Alexander Berkman on July 22nd, 1892, was convicted in Pittsburgh, Pennsylvania, upon an indictment charging him with attempted murder. That he was sentenced upon that conviction to serve twenty-one years in the Western Penitentiary of Pennsylvania. And from my understanding of the record he served fourteen years out of this twenty-one years, having been released under the Pennsylvania law on parole at the expiration of two-thirds of his sentence.

I shall not refer to his other arrests, because that is the only other absolute conviction I have a record of; but I feel that the Court should take into consideration the fact that this man who says he ~~doesn't~~ ^{does not} believe in violence, went to the office of a man, and there shot him down in cold blood, or attempted to do so, without giving him a chance to fight for his life. And such is the man who believes in universal peace,

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and believes it is wrong for one human being to kill another human being in warfare. That is the sort of man who goes into another man's office, and kills him, or rather tries to kill him, like a rat in a hole.

As to the defendant Emma Goldman, she has been a great disturber of the peace for many years. In 1893, she was convicted in this City before the late Judge Randolph Martine, of unlawful assembly and inciting to riot, and convicted under ^{several} ~~said~~ indictments, and at that time she was sentenced to serve one year in the New York County Penitentiary at Blackwell's Island. And I call attention to the fact that in this case the witnesses for the People testified that Miss Goldman told the audience in the German language, in Union Square, that if they did not get what they wanted peaceably, they should go into the homes of the rich and take it by force; if they did not get what they wanted in any other way, to go ahead and take what they wanted by force. She denied that charge on the witness stand, and said she did not believe in violence at that time, but the jury found her guilty, and she was sentenced to serve one year on Blackwell's Island by Judge Martine.

I will not refer to the other charges, because she

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has been arrested many times and convicted for minor offenses; but I believe that the Court has the right to know that when she was convicted for unlawful assembly and inciting to riot before Judge Martine, ~~that~~ she then denied having made the statements which were attributed to her, the same way as her witnesses have denied the use of certain language which would bring her under the particular statute here.

THE COURT: Gentlemen of the jury, I wish you would remain, for I desire to say, before I may forget it, that I think the appreciation of the Court and of the community is due to you for your fearless and prompt manner in which you have discharged your duty. I do not wish to express a word that might be construed as in any manner flattering you, but I have never sat on any case where more earnest men have been jurymen, who have paid closer and better attention to the case than you have; and I want my association in this case to be a remembrance of my appreciation.

The defendants may remain seated.

It has undoubtedly been a source of regret to the gentlemen of this jury, as it has been to the Court, and possibly to those who have sat in the courtroom for these many days, that the extraordinary ability¹⁵² displayed by

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the two defendants, has not been utilized in support of law and order. The magnetic power of one of the defendants, if thus utilized, might have been of great service in reforms legitimately advocated, for the betterment of conditions, as the world goes on. That power might have been of tremendous service, and more especially among the millions of humbler people who come to our country in an aspiration for liberty.

We understand, I think, what has been spoken of as the psychology of the defendants, and I am quite sure they understand what might be called the psychology of the courts.

We do represent the existing order of things insofar as that means that progress must be accomplished in this country by lawful means. We regard as enemies of the Government, in the most serious sense of that term, those who advocate the abolition of this Government, those who counsel disobedience to our laws, and those who induce the less strongly minded to disobey our laws. These may be very old, and to some very tiresome sentiments. But they are the sentiments that from our point of view have become a part of our lives, won at great expense by the Revolutionary bodies, by the men who fought in the great Civil conflict, and by the men who

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now are willing to stand by their country when their country needs them. We have no place in this country for those who express the view that the law may be disobeyed in accordance with the choice of an individual. I am expressing not my view alone, I am expressing the views of what we in America understand to be the views of a true democracy and a true republic. The Government has this far enacted no special statute to deal with those who counsel disobedience, and who advise insurrection, who seek to reach and control the humbler people, some whom do not understand things, by methods such as were disclosed in this case. And I desire, so far as I am concerned, that my words shall be perfectly understood, not merely by those who are here, but by anyone else who has in his mind that he is stronger than the law. It makes very little difference what becomes of a single administrator of the law, whether he be officer, Marshal, District Attorney or Judge. They come and go.

But in this country the law is an imperishable thing that lives forever. And it merely uses for the moment, as its administrators, some human beings who may at any time give way to others.

And so, when I impose this sentence, I am imposing

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it on the one hand with the regret that these abilities were not better used; I impose it on the other hand with the profound conviction that I am speaking for organized law, for the kind of liberty that we know and we understand who have been privileged to live in this country, that we believe is a true democracy.

The maximum sentence under the statute is two years and ten thousand dollars (\$10,000) fine.

I sentence the defendant Alexander Berkman to the United States Penitentiary in Atlanta for two years, and fine him the sum of ten thousand dollars (\$10,000).

I sentence the defendant Emma Goldman to the State Penitentiary at Jefferson City, Missouri, for two years, and fine her the sum of ten thousand dollars (\$10,000).

I further direct the District Attorney, under the provisions of the Immigration Act, to forward to the Commissioner of ^{Immigration} ~~Labor~~ the record of this conviction in order to determine in due course whether or not either or both the defendants are subject to the provisions as to deportation, provided in that Act. That is a matter which is under the statute an administrative matter for the Commissioner of ^{Immigration} ~~Labor~~. And the District Attorney is directed to forward the record of this conviction to the Commissioner of Labor. ^{Immigration} ~~Labor~~.

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I may say, in concluding, that the responsibility for the custody of the defendants is with the Marshal for the Southern District of New York. He may exercise such discretion in that regard as he deems best.

The Court is now adjourned without date.

MISS GOLDMAN: Just one moment, please. We wish to ask, -- as we intend to appeal the case, -- we wish to ask now for a last instruction and information, whether we make the appeal now, or whether we have a certain time for the preparation of the appeal.

THE COURT: You have,-- under our rule -- you have ninety days within which to sue out a writ of error. And in order that there may be no mistake or confusion on the subject, the stenographer will note that the defendants may have ninety days within which to sue out a writ of error.

MISS GOLDMAN: We should, however, like to know more specifically whether we may, after we are taken away from here, consult regarding the appeal, or whether we will be spirited away in a speedy manner. We would like to know that, to be quite clear where we stand.

THE COURT: The fullest opportunity within the ninety days will be given to the defendants to consult counsel and prepare their assignments of error and the writ of

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error. If in the course of that period there is no such opportunity, the defendants may address a communication to the Court, and the Court will see that such an opportunity is afforded them. As a matter of fact, such opportunity is your right during the coming ninety days.

MISS GOLDMAN: Well, may I just ask, please, what the procedure is, as we don't know what it is, regarding whether we can now, -- I mean within the next hour or two -- consult with counsel regarding the appeal? We ought to know that.

THE COURT: The custody of the defendants is with the Marshal, and the Marshal will deal with the matter referred to. The Court is now adjourned.

MISS GOLDMAN: I wish to thank the Court for the marvelously fair trial we have received.

msP I hope history will record the fairness; and history will also record, your Honor, that the two people asked for an adjournment, or rather a deferring of a sentence for two days to arrange their affairs, and yet the Court considered them so dangerous to the United States that it would not give them two days, -- which are given to the most heinous criminal. Thank you very much.

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U. S. v GOLDMAN and BERKMAN

Address of HAROLD A. CONTENT to the jury

July 9, 1917

PAUL MUNTER
SHORTHAND REPORTER
68 WILLIAM STREET

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U. S. v EMMA GOLDMAN and ALEXANDER BERKMAN

New York, July 9, 1917

3:25 p. m.

ADDRESS OF HAROLD A. CONTENT TO THE JURY

MAY IT PLEASE THE COURT AND GENTLEMEN OF THE JURY:

You have been exceedingly patient with your consideration of this case during these ~~long~~ warm summer days and there is no reason why any very extended consummation of the facts that were marshalled in evidence should be made at the conclusion today. You have seen the witnesses, you have observed their demeanor, you have listened to what they said, you have the documents in evidence that were at all times open to your consideration and your inspection and perusal. Very naturally too, under the system of jurisprudence that prevails in the federal courts and in the courts of the State of New York, as a final analysis you, gentlemen of the jury, are the final judges of the facts and the credibility of the witnesses, and it certainly is not in my province to tell you how you should bring in your verdict or to advise you ~~how~~ on any particular point of the case; ~~for~~ I know that you gentlemen have had enough experience on juries, both, civil and criminal, to feel that you want to have put in concrete form before you by lawyers the salient points and facts in the case, so that when you go to

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your juryroom for the discussion of the evidence in order that you may decide the issue of facts submitted to you by the court you will have clearly in your minds exactly for what this side and that side of the controversy has contended. Now, gentlemen of the jury, unfortunately I am sadly lacking in that eloquence of words that has distinguished Miss Goldman's oration. I am paid to talk for a living but I am sure that if Miss Goldman wanted to accept a position in the government service she could secure the finest kind of position by reason of her oratorical gifts. But perhaps I have something in the nature of a confession to make to you, because there was a time in my youthful career when I offered myself as a candidate for the State legislature and I told with all my sincerity the voters in my district why they should vote for me, and you can judge the degree of success I had, when I tell you that I failed to be elected. But I feel in this case that whereas the government forces may not be able to place before you that eloquence, that impassioned oratory, that use of words that has so distinguished Miss Goldman during the past 20 or 30 years, still on the other hand the government has brought before you an eloquence of facts that cannot be disregarded by any juror who is

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conscientiously trying to decide a question of fact upon the evidence submitted to him and upon nothing else. Now, gentlemen of the jury, you were told somewhat in the opening speech to the jury just what the law in question was.

I have heard many charges on conspiracy, some by His Honor Judge Mayer and some by other judges. From that experience I believe I am able to say ^{to you} that I assume that His Honor will tell you that conspiracy is just this: it is an agreement of two or more persons to accomplish something unlawful by perhaps perfectly lawful means, to accomplish something ~~lawful~~ unlawful ~~means~~ by lawful or unlawful means, or to accomplish something lawful by unlawful means. Now then, the conspiracy section of the federal code, criminal code, is this: If two or more persons conspire to commit any offense against the United States and one or more of such persons does any act toward the accomplishment of that conspiracy, he is guilty of a violation of that particular section. So that on the 18th day of May, 1917 there became effective a law passed by Congress and signed by the president which the president very aptly has termed the selective service law, providing among other things that because of the war conditions

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with which we are confronted, service in the army should be based upon universal and democratic liability to service of all male citizens or persons who have declared their intention to become citizens, other than alien enemies, between the ages of 21 and 30, both inclusive. For the purpose of accomplishing that object, which the Congress declared to be the law of the United States, the statute further provided in §5 that upon notice by the president, or public proclamation by him, setting the time and place for such registration it should be the duty of all male persons between the ages of 21 and 30, both inclusive, other than certain persons exempted, such as members of the regular army and navy and the national guard, and in the naval militia while in the federal service, to present themselves for and submit to registration as provided for by that act. And the act gave the president power to fix the date of registration; and in pursuance of that power vested in him, at the same time that he signed the law the president issued his proclamation specially fixing the 5th day of June, 1917 between the hours of 7 a. m. and 9 p. m., at which time he called upon all male persons who had attained their 21st birthday but not yet attained their 31st birthday to present themselves at the registration

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places in the precincts wherein they have their permanent homes, for registration as provided by law. The charge then is that these defendants conspired together that numerous persons of conscriptable age who come within the class of persons mentioned by the law and by the president's proclamation should wilfully fail and ~~refuse~~ refuse to present themselves for registration; and further that these defendants conspired that they should aid, abet, counsel, command, induce and procure such persons wilfully to fail and refuse to register. §332 of the criminal code says that whoever directly commits an act or whoever aids, abets, counsels, commands, induces or procures someone else to ~~commit~~ commit an act is a principal. In other words, under the federal criminal code as it is in the State of New York, if I induce ~~xxx~~ someone else to commit a crime, although I may not myself pull the trigger that killed the man, yet if it can be established that I aided and abetted him to commit the act which constituted the breach of the peace, I am just as guilty as he is. I am a principal in the first degree. In other words, by the laws of the State of New York and of the United States, all those who at the common law were known as what we call "accessories before the fact" are constituted principals, in accordance

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with the true principles of justice and equity. . . .
So that the defendants have lost sight of a very
important element in this case; and in summing up
their side of the case I ask you to remember this
particularly. You have heard so much about conspiracy
and His Honor will charge you so clearly on that, that
I shall not mention conspiracy any more. But I do say
that the object of the conspiracy here was that the
defendants should aid and abet as well as counsel and
procure persons not to register, aid them not to regis-
ter, abet their failure to register, procure ~~and assist~~
the result that they shall not register, and counsel
them by every subtle means in their power wilfully to
set themselves above the provisions of the selective
service law of May 18, 1917. Now, bear that in mind.
The charge is inclusive and the words ^{are} "aid, abet, coun-
sel, command, induce and procure divers persons whose
names are to the grand jurors unknown wilfully to fail
and refuse
A to register as provided by law and the proclamation of
the president of the United States issued in accordance
with mandate of the people through their duly constituted
representatives in Congress." Having in mind that
charge, then, you gentlemen must decide as an issue of
fact these three points:

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(1) Were these two defendants, and possibly other persons whose names were not known to the grand jurors, engaged in a concerted action? In other words, if you find that they were acting entirely independently, that there was no common agreement, no common plan, naturally you must acquit. So that the first question you must ask yourselves is, were these two defendants acting in concert. I will refer to that in a minute.

(2) And then if they were, what was the object of their conspiracy? Whether they succeeded or not, no one will ever know. But what was the object of their conspiracy? The object of their conspiracy according to the charge was that diverse persons of conscriptable age should not register and that they should aid, abet and counsel these people wilfully to refuse to register. Then you must ask yourselves this, Was their object such, namely to bring it about that people should not register, and should disobey the provisions of the statute of the United States?

(3) And then the third inquiry would naturally come as a result: "Did one of these defendants"—and it matters not how many overt acts they did—"commit one overt act charged in the indictment looking toward the accomplishment of the conspiracy?" Perhaps the

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words "overt act" may confuse you a little bit. An illustration might make this a little clearer. Two of us might be in an unlawful plan to kill John Jones, and as part of the plan I might have so arranged that I was to give a signal to my fellow-conspirator who was to fire the shot, so that the signal might be the dropping of a handkerchief on the ground. That is a perfectly innocent thing in itself, the dropping of a handkerchief. But if the dropping of a handkerchief was a signal to the codefendant to go and kill somebody, that would be a very significant "overt act" in a conspiracy to commit murder. So that these overt acts may in themselves be innocent, but when coupled with the intent and purpose of these defendants and coupled with all the facts and circumstances in the case it is for you to say whether that overt act was done to effect the object of the unlawful plan or conspiracy. So that those are really after all the three things that you must ask yourselves.

Now, gentlemen of the jury, let me first touch upon the point of whether or not these two defendants were acting in pursuance of a common crime, acting together as it were. Mr Berkman referred to the lot of time that I wasted in calling printers, lithographers and

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electrotypers and bookbinders, &c. Gentlemen of the jury, I am sure you don't feel that the government has wasted any time in this case. I shall refer to what the defense did in that manner. But I am sure that every expedition which was possible and safe to use, was employed by the government in presenting its side of the case. But all that evidence, which now is undenied and admitted, went to this effect: it went to show what the No Conscription League was, who ordered the printing, who received the cuts of wood engraving, who received the bundles of Mother Earth; that the Mother Earth and The Blast were received on Saturday, June 2, before the date of registration, so that they were ~~sixth~~ to be given out before the day set by the president in his proclamation. And I ask you as intelligent people if you don't think that it was very material as part of the government's affirmative case to establish who composed this high-sounding No Conscription League. And I say to you that from the evidence you have heard you are safe in saying that the No Conscription League might just as well have been termed "Goldman, Berkman & Company, dealers in all sorts and orders of disorder." You have the testimony of these two defendants appearing at the meetings of this league.

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In some instance berkman was the chairman. In others their satellite Mr Leonard Abbott presided. And in each case both defendants spoke. And you go even further if you dont think they acted in unison. When Miss Goldman according to the testimony was away in Springfield, Mass., and Mr berkman felt it convenient not to go to the Mother Earth office because of the alleged injury to his foot, where did they meet? In Miss Goldman's apartment in the city of New York! And yet you would say that these two defendants were not acting in pursuance of a common plan?

Something still further significant, that these defendants may say had nothing to do with the case, but which I deem material, was this: I offered in evidence Government's Exhibit 7, the literature received by Mr William Curtis Demarest, ~~xxxxxxx~~, similar literature being received by his wife--and I shall refer later to the manifestoes and handbills; but I want to call your attention to the fact that the purpose of offering this and the purpose of offering the letter to the city editor of the Times and to this man Frank Haggerty was this: here was the identical form letter in this case, signed Alexander Berkman, and in this case the identical form letter signed Emma

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Goldman. So that you have before you incontrovertible evidence that they were signing exactly the same type of letter; in effect, that they were the No Conscription League. And that is what these things were offered in evidence to prove.

You have further still a very interesting fact. They are trying to tell you of their magnificent independent personalities that would not accept of a merger with anyone else's personality; that he has always run The Blast as an independent paper, and she Mother Earth as an independent publication. But I want to call your attention at this point to the ^{language} ~~nature~~ of this part of the form letter: "Realizing this, we appeal to you

(Insert)

and above all through the channels of Mother Earth and The Blast." Here you have it in black and white in their own form letter, under their respective signatures, operating together for a common purpose, the defeat of an act of Congress that was passed by the people in their sovereignty.

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I offered another thing in evidence, and I don't want this to be misconstrued: I offered in evidence a joint letter from Mr Berkman and Miss Goldman to me. Don't imagine that that was offered for the purpose of creating any prejudice in your minds. They have a perfect right to write to me. This was merely offered for that purpose: to show that they were signing a joint letter in the name of the No Conscription League during the trial of Kramer and Becker who were arraigned upon a similar charge. And they stated in this letter: "Why are only unknown boys like Kramer and Becker prosecuted

(Insert)

similar crime?" So that you have a right to infer that the more prominent men and women were these two very modest defendants Emma Goldman and Alexander Berkman.

So, gentlemen of the jury, I shall not waste any more time to show you that they were acting in concert. You have seen their actions together. You have seen their conferences. You can tell from their whole career that these people, who were at one time the publisher and editor respectively of the same paper, who really are the No Conscription League, have been acting in concert. But now, gentlemen of the jury, you ask yourselves

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then: Has the government proved the object of their concerted action, the object of their common plan? And I say it has, by a series of things. First, I want to call your attention to this fact: that you have some very significant language in Government's Exhibit 1, this manifesto, and that I have a right to place my interpretation upon it, which differs very widely from Mr. Berkman's: "We will resist ~~for~~ in our power and we will sustain those who ~~have~~ similar reasons refused to be conscripted." And further down: "Resist conscription. Organize meetings. Join our league. Send us money"--money always being acceptable--" * * * come in conflict with the government." The government in a case like that, gentlemen of the jury, does not merely mean the prosecuting officer. The government is your government. It may not be their government. But it means your machinery of government, your duly constituted authorities who are charged with the carrying out of the laws that you through your representatives have caused to be enacted. These people have undoubtedly been the recipients of some very bad legal advice. Some brilliant legal mind has told them that there was a distinction between registration and conscription. But Mr Berkman made a little break in ~~the~~ his summation. He

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told you that registration was the first step of conscription. And so it is. If people don't register, how on earth are they to be called into the selective service proposed by law, contemplated by the selective service law? In other words, gentlemen of the jury, without registration there is no conscription. They are one and inseparable. The registration provision is merely part of the larger law, the first and initial step in the carrying out of that law. These defendants openly say they will resist, and openly urge people to resist, in the very same words: "We will resist conscription." And I say to you, gentlemen of the jury, in spite of the very talented and technical lawyers, that to resist conscription means to resist registration; and it is capable and susceptible of no other interpretation.

Now, what do they do? On the 18th of ^{May} ~~June~~, they had a meeting at the Harlem River Park and Casino. And, now, you have been told here in the summation that the president did not sign the bill until just about the time that Miss Goldman was finishing her oration. Well, let's assume that is true. I don't know at this time whether it is or not. But let's assume that Miss Emma missed the president's signature by

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about eight minutes. What difference does it make? You gentlemen are at liberty, if you wish, to disregard that as an overt act charged. But you only have to prove the commission of one overt act--and we have got plenty more charged in the indictment. But that meeting is very important as bearing on their intent, and I want to call your attention to the fact that it is common knowledge that for ten days prior to that meeting the principle of conscription had been passed by an overwhelming majority in both houses of Congress and that they were only fussing in the conferences between the Senate and the House of representatives over immaterial amendments such as the sale of liquor to men in uniform. So that everybody knew who went to that meeting just what that conscription bill would contain. And the daily papers announced it would be signed that day. What is the use of fussing over eight minutes? These people who are willing to die for their principles, fussing over a technicality of that sort! Gentlemen of the jury, if you have any doubt about that at all, then I ask you to disregard that, as an overt act. If you don't think there are enough overt acts without that, disregard this indictment and acquit.

But I say you have an undoubted right to take

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into consideration the purport of that meeting as bearing on the general conspiracy. Bear in mind this point: that ~~the~~ things started on May 18 with this meeting. That thereafter what did they do? They held a meeting on May 23 at Miss Goldman's flat, ~~and~~ in her absence, ~~Mr. Berkman~~ which Mr Berkman attended. Well, thank heaven, I have been acquitted of the charge of larceny of that paper anyhow! It is in evidence. I am very glad it is in evidence. But before it was admitted the court admitted, through a very proper interpretation of the law, that if the original became lost, secondary ^{thereof} evidence, might be received, and admitted the testimony of a number of witnesses, including Miss Fitzgerald, who read the document to the meeting. And what did they testify to? I can't remember the exact words, but each one of those witnesses left a very distinct impression with you gentlemen of the jury that Miss Goldman in that statement, a copy of which was read, had affirmatively advised her members of the No Conscription League not to advise people not to register. And let us see what the purpose of the document is. I shall not read the whole thing. I will read parts, and if you gentlemen want to read the whole I will hand it right over. "As I said at our great meeting"--I

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suppose that is the meeting of May 18--"I am ready to
go against murder!"
To any extent, mind you! Then later: "But what I do
myself-- for your
consideration before you"--and then she states that
refusal to register means a year or more, and refusal
to be conscripted possibly a year in prison. "This
may seem * * * * * American
government." And then she goes on to say "Whichever
way you decide, you can count on my support and backing."
In other words, if people decide that they will not regis-
ter, who is going to aid and abet them but Emma Gold-
man? If that is not "aiding and abetting," nothing
on earth ever constituted that definition. "I place
myself and Mother Earth at the disposal of
the No Conscription League."

And further, this very significant language: "I
would also suggest that arrangements be made
such a proclamation ought to
be printed on the day of registration."

Gentlemen of the jury, this woman doubtless knows,
you all know, that the vast majority of laboring men
throughout the length and breadth of this country are
loyal in their upholding of the government of the

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United States; and she knew that the labor press and every other kind of press would certainly refuse to print such matter except possibly as an advertisement they could not well refuse. There have been ~~attempted~~ attempts from time to time to let you think that these people's great object in life was the prevention of child labor, the benefit and amelioration of the conditions of laboring people. Why, we all believe in that. One would think that the government that was prosecuting this case believed in child labor--although whatever law was passed, perhaps at the behest one might say of the late lamented Mrs Wilson, was a bill against child labor in the District of Columbia. So that that has nothing to do with the case. It is injected for the purpose of making it appear that these are the representatives of labor. And I say to you gentlemen of the jury that the honest loyal laboring man is ashamed to look people like these in the face.

What further evidence have we? That they contemplated having a meeting on June 4. Perhaps the most truthful witness adduced by the defense was Miss Rebecca Shelley. She told you how this great barrister Mr Harry Weinberger, author of "Free Speech and Free Press," attended this meeting and told what would happen one

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way or the other. And doubtless, from his erudite legal mind, they got the impression that they must be very careful not to tell people in so many words not to register. But she tells you that the weakest spirits there said they would register, that the stronger ones said they would not register, but they have Miss Goldman's promise to back them up, whichever course they took. And you have a right to assume that the majority of those persons were banded together in defiance of the law; and they were part of those persons whose names were to the grand jurors unknown, as those who would not register and whom Miss Goldman in her statement said she would support at all hazards and would print in the labor press by paid ads the reason why they would not register, the same to be printed on registration day. Miss Fitzgerald further said that it was decided at that meeting definitely not to take any action to induce people not to register; but when she was questioned at length by the court on that proposition it finally appeared to your absolute satisfaction that no definite action of any sort was taken, no resolution, no vote, no question propounded or voted upon.

So that you have this very remarkable thing. Here

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are these people who gave secondary evidence, and later when the missing document is ~~x~~ found, their secondary evidence is found to be ~~gax~~ grossly inaccurate. And the document which was lost and which was luckily found is to my mind one of the strongest documents that the government could possibly have, to show that these people were in a conspiracy to aid and abet the people to defy the law.

Now then, this No Conscription League organized a meeting to be held on June 4 and they got out handbills. Will you tell me, if ~~thexx~~ their object was not to procure people of conscriptable age not to register, Why/ they had to hold it on the eve of registration, and they had big lines, "No conscription", although conscription was a law of the United States at this time, and why they had to have further down "On the eve of registration"? Why hold it at that ~~time~~ time unless it was for the very purpose of bringing about a failure of persons ~~not~~ to register as provided by law? And Miss Goldman somewhere around the second day of June caused to be issued and published and, among others, gave to ~~thexx~~ a Herald reporter--which is charged as an overt act--copies of the June issue of Mother Earth, very cleverly gotten up. What do we find? We find

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first an article by a gentleman named Sachs Commine
called "June 5th," which is registration day; and he
says;--he first refers to the fact that June 5th will
be greeted with the loud hosannas and fife
and trumpets. Elsewhere, says he, "will be silent

but the attitude we have taken for ourselves." In other
words, this is a very subtle address made to people who
might be on the fence in regard to registration, for the
very evident purpose of making those weaker spirits
fail to register under the influence of a more dominant
mind.

And then he goes on to say: "We can decide for
no one decide your
course of action." And then they go on: "Why then
should there be part of it"
--that is conscription--and in large type "Registration.
Why should there be no militant objection to registra-
tion?" If that is not equivalent to saying "Object in
militant fashion and resist registration," then no
subtleties of language were ever better employed.

Then appears an article entitled "The No Con-

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scription League," signed by Emma Goldman, which is very much the same as the manifesto I read you; "We will resist registration" according to the very previous article--"by every means in our power; and we will sustain," which means aid and abet, "those who ~~have~~ for

refused to be conscripted. " And then you are treated to such samples of patriotic literature as where one might ^{not} go to a theater or other public place "without having to prostrate oneself before the national anthem

just deserts." And on the back you have an announcement of the same meeting on the eve of registration.

What does that cover itself portray? "In memoriam June 5th, American Democracy." Do you think that that was put there for the purpose of inspiring confidence in the law of the United States? Or was it not rather put there to cast ridicule on a sovereign statute?

Another overt act charged in the indictment is the publication on or about June 1 of The Blast. Mr Berkman has put his own interpretation on this; but I deem this article of sufficient importance that you will pardon me if I take the time to read it: "Registration,"

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not conscription, registration, "is the first step of
conscription.

against his will."

(Insert)

ALEXANDER BERKMAN."

If you can make any other interpretation out of
that article than that it was part of a plan to procure
people not to register, to bring in a plot to aid and
abet them wilfully to refuse to register, I dont know
what language can be put more clearly than it has
been put by the pen of Mr Berkman. He has attempted to
tell you that that last line, that the conscientious
objector will neither register nor be conscripted, is
a mere expression of an opinion, and the expression of
an opinion is not a crime, according to his definition.
If I get up on a platform and say "President McKinley
ought to be assassinated" I am not ~~assassinating~~ in so
many words urging people to assassinate President
McKinley, but I am offering a suggestion that might

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operate on a weaker and more emotional mind and bring about a result as hellish as any definite words could make it. That is the force of argument. That is merely an expression of opinion.

And then, if you don't think that these people had it in mind to aid and abet people not to register, there was found at the time they were arrested a number of pamphlets which have been offered in evidence of the demonstration to be held in Madison Square on June 23, 1917, which did not happen; but I only call your attention to these very significant lines at the bottom:

"Men who have not registered on June 5 should stay away."

In other words, you have a right to assume that these defendants were afraid that the federal authorities would find at this meeting someone who had not registered and they were accessories after the fact. They were trying to shield these men from detection in their crime.

Now let me cover the overt acts again. As might well be expected, a great attack was made on Patrolman Randolph. Now first let me make this explanation. There is no such position as a "police stenographer." Randolph is a regularly appointed patrolman. Cadell is a regularly appointed patrolman. At the present

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time he happens to be assigned to the detective bureau. Because of Randolph's experience as a stenographer in the Brooklyn Navy Yard, because of the further fact that he happened to have been passed by the Civil Service Commission for the Board of Education or some other work which he was not able to take up by reason of the fact that he had meanwhile been appointed a patrolman, he was designated to ~~not~~ go to these public meetings. Mr Berkman says "Why didnt they take my speech?" The answer to that is perfectly obvious. In spite of Mr Berkman's modest claim to be put in the class with Jesus Christ and Marthin Luter and Garibaldi and Thomas Jefferson, the fact is that he was not quite as well known as Emma Goldman and it was perfectly apparent that the police gave instructions to go up there and take Miss Goldman's speech. And they hadnt anyone else in mind. It was very unfortunate that at that time Mr Berkman wasnt quite as prominent as Miss Goldman; but-- such is fame. And now this transcript, Government's Exhibit 31, has been offered in evidence. And I have also offered in evidence and I am willing that you gentlemen should take to the juryroom, if any of you understand stenography, the stenographic minutes of this speech which I am accused of doctoring. I am so glad I

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was acquitted of the charge of larceny. But it is like getting out of the fryingpan into the fire. In the beginning of the case I was guilty of larceny in connection with Defendants' Exhibit L; and now I am guilty of forgery in connection with Government's Exhibits 31 and 62. But if you gentlemen of the jury believe that I am guilty of the crime of ^{or} forgery, as good citizens you ought to report it to the proper officials and at that time we will see what happens. But at the present time you have no proof, because there was no forgery, except the ex parte assertion of a gentleman not under oath and not subject to cross-examination, as to his knowledge of that particular crime on the part of the prosecutor.

I want to say in the beginning, to save time, that in these two transcripts, the one which I have marked "Randolph" in my handwriting and the one which I marked "Cadell" in my handwriting, there is absolutely no distinction, there is hardly a difference between words, maybe a comma--you can look and examine to see whether my statement is correct. The only thing is this: Cadell got a few names and Randolph didn't. He was sitting in a better place and he got a few names like Stone and LaFollette and he has a Russian name, Breskovskaya,

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which Randolph didnt have. But if Randolph were not perfectly frank he would not have put down: "Mentioning some names." These are the parts that I want to call to your attention: after calling Congress a jumping jack and a few other complimentary things she says: "Now, friends, do you suppose for one minute

We believe in violence and we will use violence." Do you see the connection in which those words fit? "How many people are going to refuse to

they will not register." In other words, they are not going to wait for the actual draft, they are going to strike at the beginning, they wont register. That is the sense of her remarks. And the selfsame phrase is found in Cadell's transcript. "I realize perfectly well

we are going to support," that is aid and abet, "all the men who will refuse to register and who will refuse to be conscripted." And then further down she says: "We will have a demonstration of all the people who will

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~~xxxxxxxxxxxx~~ not be conscripted and who will not register."

Now, if any corroboration were necessary of the two stenographers, you have the most remarkable corroboration in the form letter of May 25. And to my mind, gentlemen of the jury, if you will permit me to say so, this is the most important fact in the entire case. You have the language attributed to her in the speech, that "we will support with all the means at our support all those who refuse to register and who refuse to be conscripted." And what do you have in this form letter: "With that in view, we have organized a No Conscription League.

or be conscripted." Will you please tell me how 8,000 ignoramuses could get themselves together and pledge themselves not to register or to be conscripted, unless that course of action was suggested to them by the speakers they adored and idolized? Just look at the two notes. In the reporter's transcript you have: "We will support all those who

and who will not register."

And in the form letter composed by them and sent out over their signature they have: "A massmeetng

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attended by 8,000 men and women who will pledge their decision not to register or to be conscripted."

What further corroboration do you want?

And at this time I have to call your attention to the fact that Cadell is uncontradicted and didn't know that Randolph was at that meeting. He didn't know he was going to be there. He never knew that he did take it. And Cadell was not a sudden witness sprung here. He testified before the grand jury and his transcript of the minutes, Government's Exhibit 62, was the one used before the grand jury and not Randolph's. It was a mere whim of mine to call Randolph before. Do you think that these young patrolmen, who are there under orders to go to the meeting and get what they hear, are going to go on the stand and perjure themselves? They have no interest in this case. And in addition to that, this meeting of May 18 was the first step you might say in the propaganda of these people. These minutes were transcribed right off from the stenographic notes, so that they were submitted to the prosecutor before there was any question of arresting the people; before the theory of a conspiracy to violate this law, you might say, had been worked out by the government. So where is their motive? Gentlemen of the jury, I want

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you, if you feel like it, to examine the stenographic notes to see if they dont tally. I called to the witness stand the official stenographer of the court, who said that Cadell's minutes tallied with his. And their own stenographer, that great champion as Miss ~~Goldman~~ Goldman termed him, was also reluctantly compelled to admit that I was reading ~~exactly~~ a correct transcript from the stenographic notes. What was the answer? The defendants answer: "The district attorney doctored them." And I call your attention to the fact--and you could have observed it and probably did observe it--that when Cadell's testimony came out the defendants were so flabbergasted that they didnt have any crossexamination left. So that I have a right to say to you and I do say to you that Cadell stands unimpeached; that Randolph after all the vicious attacks made on him when his civil service record was dragged out here and attacked, is corroborated by the language of the form letter of the defendants, is the strongest corroboration that could possibly be at any time found in any case.

Some of the witnesses who testified that Miss Goldman never said "We believe in violence" and never

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mentioned registration, were also witnesses as to the contents of that document Defendants' Exhibit L, the document of Miss Goldman from Springfield, Mass. And judging from the very great accuracy of their memory as to the contents of that document, I say you have a right to disregard their entire testimony as to what actually was said in this crowded meeting. ^{at least} Here were these stenographers, concentrating on what the speaker was saying, straining every ear and every nerve to take down literally every word spoken: are you going to take the memory of ~~very~~ very excitable, emotional witnesses as you have seen them on the stand, as to what took place when Miss Fitzgerald read the statement from Miss Goldman?

Now, gentlemen of the jury, Mr Berkman said that it was no crime to give this copy of Mother Earth to Mr Haggerty; that he was not of conscriptable age. That is not the point. It was given to him as a newspaper man, that he might spread its pernicious doctrine if he saw fit. And then she attacked the Times reporter for bringing this thing to the government. The Times reporter got his letter through the mail just as any other person did, and as a good citizen he thought the authorities ought to have notice of the kind of literature

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that was going through the United States mails. And the reporter who testified was merely bringing it down, as you might say, as the messenger of the city editor who turned it over to the government. He has not violated any of the ethics of his profession, except being a good citizen of course, and I suppose according to the creed of these defendants that is a gross violation of ethics.

Now, they organized the meeting of June 4 and they incorrectly told you that I paid no attention to that meeting. That is not so. I read to you, gentlemen of the jury, every word of the speeches of Emma Goldman and Alexander Berkman on that evening. What had happened in the interim? On May 18 these defendants thought that they were among their own, that there were no stenographers present. It had been an old habit of theirs to escape previous charges by bringing a lot of witnesses as though to say "We didnt say we believe in violence and we will use violence." She didnt know there was any stenographer there. It was a great shock to her here when Randolph was put on the witness stand. It was a still greater shock when Cadell was put on. So that that night, to use the vernacular, she "cut loose." She talked to her own as only Emma Goldman can talk. And she told them "We will support with all the means

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at our support those will not register, who will not be conscripted." Meanwhile they had this informal conference of May 23 and on that occasion they profited by the excellent legal advice of that great barrister Mr Weinberger and he doubtless in his skill told them to be very careful of the word "register." Those were words not to be toyed with; you might get yourselves into the clutches of a specific statute. So let us see the general tenor of that meeting. Mr Abbott presided and he started it with some such joyous remarks as "If you try to take us by force we will resist." Then he went on a little further and said "I dont know how many young men

something that is of unquestionable value." In other words, "I dont know how many are not going to register, but those of you who dont register, why, you are doing the noblest kind of an act." "Down with militarism. Down with the State except by forced service." In other words, down with the United States. And then he introduced as the first speaker a young man whom he termed of conscriptable age.

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Then the next speaker was Miss Goldman's niece Mrs Bal-
lentyne. And finally he introduced a young man named
the recipient of a
Kane who was ~~xxxxxxxxxxxxxxx~~ shower of electric light
bulbs and who told the audience that "Tomorrow on June
your
5th you will have an opportunity to crush those laws
that destroy democracy." How could they crush them...
except by refusing to register? Then he went on to say
"I cannot allow any law to interfere with the freedom of
my conscience. I for one would not uphold any law that
does not come within the written constitution." And
then Mr Abbott read a little article from a woman who
was a Rumanian who couldn't speak as aptly as he could,
who among other things said "We will never allow
to be conscripted,"
which would mean among other things "We will not allow
our sons to register."

And then Mr Berkman was introduced in those glowing
words as a man who went to prison for 14 years in the
fight for liberty, page 18 of my transcript. And by-
the-way I have used their own transcript in this case,
although the federal stenographers were there too. And
that's why this Mr Pickler was called and the only
reason. He was not my witness. He was called as a hos-
tile witness and we used his own transcript to show how

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We trust the other side although they don't trust us:

"Conscription in a free country means

Registration is the undertaker."

That's very similar to the article in *The Blast*.

"Those who want to register should certainly register; but those who know what liberty means--and I am sure there are thousands in this country--they will not register." In other words, those of you who believe in liberty should not register. Of course they were acting under very proper legal advice and they thought they were circumventing the law. But you, gentlemen of the jury, have common sense and you know that this was only really a little piece of casuistry, which reminds one of one of those plays of Christopher Marlowe where there was a clergyman who performed a marriage ceremony during Holy Week and was offered some money by the young couple and he said "Oh no I can't take money, because this is Holy Week. But of course if you insist you can place it in my pocket and I don't know anything about it." That's the sort of casuistry that marks the speech of these defendants.

Then Miss Goldman took the stand. She said that on June 5 there was going to be celebrated the funeral

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march of 500,000 American youths. "I am here frankly
to work

~~xxxxxx~~ against conscription." If she is working
against conscription she must be working against registra-
tion. Now, get the subtlety of this. Certainly
the confederation of Miss Goldman and Mr Weinberger was
necessary to evolve such an exquisite nicety as this.
Mind you, the federal stenographers were there and she
saw me there and it wasnt like the meeting of May 18.
It was very circumspect. "Now, friends, if I dont tell
you not to register

and to rely upon your own conscience." In other words,
she says now "I would tell you not to register; only
as a consistent anarchist I cannot, because we never
impose our will upon anyone else." That is very similar
to my illustration of saying President McKinley ought
to be shot. If I said that, I wouldnt be telling
someone to shoot President McKinley, but I would be
suggesting perhaps--if I had the magnetism and the force
of Miss Goldman, which I havent--I would be suggesting
to that weaker mind the putting into execution of a
criminal tendency, and the consummation of a deed that
would be just as bad as though I said in so many words

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"Go out and kill McKinley."

Now, will you just permit me to remark that all this class of persons who in their public utterances and when arraigned before courts and in their writings profess their willingness to be shot for a principle, in every case that class of persons is found wanting when it appears that the prison doors are staring them in the face because of the violation of a particular statute. It's all very well to go shout your fearlessness of the law when you think you are within the law. But when once they fear that the noose of the law is entangling them, then I say that they resort to perjury and subornation of perjury in every case. And upon this theory: these people don't recognize the sanctity of oaths. They do ^{not} recognize the sanctity of courts. Their life object is agitation, disturbance, disorder and anarchy. What do they care about an oath? The end justifies the means. To bring about a condition of chaos and anarchy, everything else must give way. The end justifies the means. And I say to you that when the test comes, when they are found to be face to face with a specific statute, in every case their vaunted bravery gives place to craven cowardice and perjury and subornation of perjury; for that is their stock in trade.

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And now, gentlemen of the jury, before I pass to the witnesses I just want to refer to a few things that were brought out in the summations of the defendants that I hadn't really thought of specifically at the time that I prepared these few remarks that I am giving you. Mr. Berkman among other things tried to give you a definition of an anarchist. You gentlemen I assume don't speak Greek. But he gave you an incorrect translation of the word "Anarche." The word "arche" means government. It does not mean violence. That is not the interpretation. So that the word "anarchy" instead of meaning "without violence" means "absence, abolition of government," or "chaos," every man to do as he feels like, without regard to the rights of his neighbor, without regard to law and order. That's the true translation of the Greek word "anarche." So, don't be deluded by their contention that government is violence and that any effort to do away with government is not violence but is something ~~is~~ that is done to destroy violence. That is their philosophy. And you had a very excellent sample of it when Mr. Abbott was on the stand and was inquired of as to the tenets of the Ferrer school in New York city. I didn't bring that out. You gentlemen recall, all this talk about Mr. Francisco Ferrer was

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brought out over my objection. I had nothing to do with that. I didnt bring out that they were anarchists. They brought that out themselves when they were examining talesmen. So that Mr Abbott told you that this school of which he is the noble head and of which these two defendants have the honor to be founders, teaches young people--think of it!--that they are above the law; teaches them what they call "selfreliance," that is to say, if you feel strong enough to defy a law of your country, why go ahead and defy it; only--be sure that That is the doctrine of the Ferrer school. you can get away with it. I didnt bring that out. They brought it out. And it is perhaps just as well for you gentlemen, who doubtless have relatives in the public schools of this country, to know that and to consider how far this country would succeed if doctrines of that sort were permitted to be promulgated among the young in this society.

~~It think~~ These defendants have told you that while this "persecution," as they call it, of themselves was going on the city was doing honor to the Russian commission. I noticed in this morning's paper a significant statement about the Russian commission, that the distinguished Russian Professor Bakhmetieff said that anarchy was going to disappear in Russia, that freedom would

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triumph, that anarchy could not triumph. The same thing is true of this country. Nobody holds any brief for the czar, nobody holds any brief for the oligarchs of church and state that have throttled Russia for many years. But we do say that no country can successfully continue in a state of anarchy and disorder. And the Russian commission that is being properly honored in this country now, stands for the same principles that I am contending for now: that no nation can continue to exist in a state of anarchy. That's their answer. The Russian commission was received with all the honor due them as the representatives of an orderly, free government and not of anarchy, where men can do as they feel like, without regard to the rights of organized society and their ~~governments~~ fellowmen.

Now, gentlemen of the jury, it is part of your province to pass upon the credibility of witnesses and I do not purpose to take up your time by referring to each witness. But I shall do somewhat like my adversary. I shall break them off into groups. We first had Miss Fitzgerald who was called as a hostile witness. Miss Fitzgerald told you what the No Conscription League was. She would not say in so many words that Mr Berkman and Miss Goldman were prominent members of the

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league, she would only say that they were the ablest speakers. But what did ^{we} ~~you~~ elicit from her? We elicited from her that the money with which the so-called league or Emma Goldman, Berkman & Company was run, was supplied by voluntary contributions, some of these contributions being taken up as you can tell from the minutes read to you at meetings where poor deluded people put in coppers and nickels and dimes, some as high as a dollar. And this money was taken, and what was done with it? It was placed to Alexander Berkman's credit in the account in his name. And you have in evidence a letter ^{to} ~~of~~ the bank telling them to do it, and you have the further fact that on the bottom of the form letters contributors are asked to send the money to Berkman and Goldman for obvious reasons, not to the No Conscription League. So what have you got? You have got the money that is taken for the avowed objects of this movement, put into the personal bank account of Alexander Berkman, mingled with ~~their funds~~ other funds, funds from The Blast perhaps, funds perhaps from his writings, if there are any; and checks drawn in common on this fund no accounting to anybody. If a trustee of any society in the State of New York handled accounts in that way he would be indicted for grand larceny and convicted.

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So as you examine Government's Exhibits 18 and 19 you have certain Graphic Press bills and you have certain other payments, you have some money sent to Robert Minor for the San Francisco defense; and to be sure they paid \$25 deposit for the Hunts Point Palace, and some other alleged bills. But you also have such significant items as these: "Mrs E. J. Ballantyne, bungalow, \$128.02"—Mrs Ballantyne who was one of the speakers at the June 4th meeting. And you have further a bill from a doctor who treated Mr Berkman's foot. And you have further the payment of hotel checks at the Brevoort for Miss Fitzgerald and Mr Berkman.

Now, gentlemen of the jury, you may say perhaps they had a right to support themselves because they were engaged in the work and didnt take any specific salary. But I call your attention to the fact that if anarchy means that you can take poor people's money and mingle it with your own and give no accounting for the it and use it for what you please, including hotel checks, then I think a lot of us will be turning into anarchists.

Miss Fitzgerald also testified in regard to the contents of that statement from Miss Goldman. And you saw how inaccurate her memory was on that. Then they

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produced a great many witnesses, and first I want to refer to the biggest of all, Mr Pickler their stenographer. Well now, gentlemen of the jury, as I told you, he was called first as a hostile witness. I think His Honor will bear me out in what I say, that when he was asked a question in regard to his opinion of whether Randolph could take a statement standing up, so many words, I objected on the ground that it was not proper crossexamination, and His Honor sustained the objection. And then this very same gentleman who had to get back to business, asked to be called back and allowed to testify in regard to it at that time, and His Honor instructed you that his answer bound the defendants but not the government. I didnt try to impeach the witness. Under the rules of law, when one calls a witness the crossexamination is limited to the subject of direct examination. I didnt call this gentleman as an expert. But what does he do? The question was propounded to him and Judge Mayer finally allowed it to be ~~attested~~ answered, on the ground that it would save time; and he was asked: "Randolph: I was standing like this (illustrating) how he held the notebook). And Pickler said: 100 words a minute?

"MR RANDOPH: Yes."

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And then Mr Pickler thinking that the entire audience was hard of hearing leaned forward and said in the most dramatic fashion "No!" or something to that effect. You probably remember it as distinctly as I do. And then I said "I don't care to cross-examine him now. I may call him after he is the defendant's witness," And then the witness, having no right to do this, voluntarily injected these words: "I tell you that this is perfectly absurd. Miss Goldman speaks 200 words a minute." The same gentleman was examined in the afternoon session, and under examination by Judge Mayer he stated that at times she went as low as 100 words a minute; that when she reached her peroration she spoke 200 words a minute. And then I called it to his attention that he volunteered the statement that Miss Goldman speaks 200 words a minute.

Now, contrast Mr Pickler's testimony with the testimony of the court stenographer Mr Sutton. I presume you remember he was a tall gentleman. Mr Sutton testified that he took Miss Goldman's testimony at the Hunts Point Palace meeting and he should judge that she ran about 100 or 110 words a minute, that she has a very loud, resonant voice. And he said that if this young

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stenographer had this book supported by a couple of
magazines he could very easily take her; that it was
done every day in Congress where a shorthand reporter
walks around the floor to get the side remarks of our
legislators. I also called in that regard Mr Finnerty
who is the head stenographer of the United States
court and he also testified that Miss Goldman could
have been taken.

What does Miss Goldman do? She proposes a little
dictation test and she read something like this "We
do not believe

Miss Goldman never spoke like that in her life. So that
the very unfairness of the test shows how absurd was her
case. Now, gentlemen of the jury, this man Pickler
took a complete backdown. In the morning he said she
always spoke 200 words a minute. In response to further
questions from His Honor in the afternoon he said she
sometimes spoke as slow as 100 words a minute; then 110,
then 125, and that in her peroration she could exceed
200 words a minute. But there is this further fact:
in a crowded hall seating eight or ten thousand people,
one must, because of the acoustics, speak more slowly
than in a court. And in addition to that, the stenog-
rapher frequently in a meeting like that has a chance

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to pick up because the applause brings him a little pause, and he has a chance to get his last words down. So as a matter of common sense I just ask you in your own minds to contrast the demeanor on the stand of this Mr Pickler and the demeanor of the official stenographer of the United States court.

You had a lot of gentlemen called who testified that they had known Mr Berkman and Miss Goldman for a long while, ^{that} they were very ideal people and had never believed in violence and had always expressed themselves as opposed to violence. You had Mr John Reed who got 30 days and doesn't know what for in Paterson, who told you in a very calm manner that God knows he was opposed to violence. And then you had Mr Lincoln Steffens and you had a psychological lady named Miss Boardman, if I recollect. And you had an Italian gentleman named Mr Petro Allegra who spoke at many meetings and at the July meeting of 1914 and you had Mrs Sloan who had a very distinct recollection that Miss Goldman was unalterably opposed to violence. And you had a gentleman who formerly was a lawyer but doesn't practice any more, Mr Bolton Hall, who believes in free speech, whether it comes in conflict with the law or not, and he was sure that Miss Goldman was opposed to violence, although he

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once heard that she served time for unlawful assembly and inciting to riot. Now the theory of all these gentlemen was this: that she could not have used these words. The important part of that May 18 speech is not "We believe in violence and will use violence." The important part is "We will support all those who refuse to be conscripted." It is borne out, as I said to you before, by their form letter. But they seemed to pick on that part and thus opened the door to certain cross-examination and they called these people to testify that she couldn't have said anything like that, because she and Berkman were both very peaceful citizens.

So then we offered in evidence Government's Exhibit 51, and on the cover you have "Issue of July, 1916. Hansen, Berg, Carron." On the inside cover: "Emma Goldman, publisher. Alexander Berkman, editor." The first article is entitled "To our martyred dead." They are not charged with this offense. Don't misunderstand me. This only goes to the credibility of their witnesses who say in the first place that Miss Goldman didn't say registration and she didn't say violence and she didn't say this, that or the other. This was done to discredit them. It went to the credibility of the witnesses who

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testified that these people didnt believe in violence, therefore couldnt have used the language attributed to them. I dont want to bore you with reading all the parts that I did read. But I want to read to you some significant remarks. This is Mr Berkman's own address, published in Miss Goldman's paper of which he was then the editor. There is another possibility and that is

(Insert)

a point where nothing but determined resistance will do any good."

Then Mr Leonard Abbott spoke very much to the same purpose. His address is printed. Then Miss Rebecca Edlson. She said "I want to say that it is about time

We will use violence." Doesnt that sound something like what Randolph credits to Miss Goldman? "We will use violence. We are not afraid of what your kept press

violence is on the side of the laboring class." Then a gentleman known as "Dynamite Plunkett," Mr Charles Robert plunkett, gave a very calm and intellectual academic address in which he says that he had "often from this

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There is but one reply: dynamite." Following that very excellent sentiment, we have the telegram of Miss Goldman read at the same meeting: "Our deepest sympathy with

martyrs of labor.

EMMA GOLDMAN
DR BEN REITMAN."

Miss Goldman thousands of miles away sends a telegram honoring the memory of men who were killed in the preparation of an infernal machine to be used upon somebody without giving that person a chance to defend himself against a machination of that sort. Miss Goldman has not disclaimed the publication of this issue. Although she may have been in San Francisco she was the publisher of this paper. And a whole pile of this issue was found in her room at the date of the arrest, three years removed from the date of publication. And though there is no direct evidence on this point you have the right to assume that those were there in her room and in Berkman's for the purpose of distribution to incipient anarchists. And then you have one more very enlightening article entitled "A Gage of Chance." Now this is not a speech. This is an article in this same

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issue called "A Gage of Chance." And it says just these two things that I would like you to remember; and again I say that this merely goes to the credibility of witnesses, which is very important in determining an issue of fact: "I have publicly said in Union Square

fellow workers labor at large." Then he says "Do you still ask me what the anarchists," of whom Miss Goldman and Mr Berkman are one--one or two, " have accomplished in the last quarter of a century?

offensive struggle of labor against capital." These people that dont believe in violence!

Just one more witness I want to refer to, the gentleman who took the witness stand, Mr Seelenfreund, a member of the bar, a great friend of Counselor Weinberger's, and he told you first that Miss Goldman never used the word register or registration in the speech of May 18, and he was particularly interrogated about that ~~violence~~ by myself and, if my memory serves me correctly, by His Honor, and he said that it was his recollection that she had not used those words. And then Mr Berkman without objection on my part put one of those manifestly

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leading questions for which by this time he is justly celebrated, in which he says "Is it not a fact that Miss Goldman told them not to register because she was an anarchist and could not impose her will upon them?" and he very willingly said yes. And I asked him what had suddenly reminded him of that; and he said Mr Berkman's question refreshed his recollection. And upon further questioning he went back to his original position, receded and said that his best recollection was that she had not used the word registration at all. Now, how are you going to believe stuff of that sort?

Now, gentlemen of the jury, before I conclude I want to say that I don't believe there ever were two people brought to trial in any court of the land who received a fairer trial and received greater latitude in the examination of witnesses. There have been times when I have marveled at the patience of His Honor who presided over this trial. But certainly these people, who first protested against taking part in the trial and said they would take no part in the proceedings, have been treated with the greatest consideration and have been given the fairest trial that any American citizen who respects our laws and our courts would have had. They stated as a matter of principle that they were defending them-

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selves. Gentlemen of the jury, you have it in evidence that the subpoenas in this case were issued by Weinberger. You have it in evidence that Weinberger participated in the conferences, that he was their attorney really up until the very moment of trial. And I say to you that the dramatic effect of their appearing as their own counsel has certainly been overcome by the fact that there must have been someone behind them. I say to you gentlemen of the jury that you have a right to ask yourselves who framed some of these very intricate questions that these defendants have asked in lawyerlike fashion? You have a right to say that somebody is behind these people, somebody giving them very pernicious advice in fact, as to how to circumvent the law with immunity and impunity.

Gentlemen of the jury, the scene in this court has been a quiet one. It has been the aim of the defendants to convey to your mind the impression that it would have been absolutely inconsistent that they should ever have advocated such terrible things as they are charged with. Gentlemen of the jury, you have ^{not} been at the different massmeetings that I have been compelled to attend. But I think you have a pretty fair picture in your mind. You have at those massmeetings a very different Emma Goldman for example than the Emma Goldman

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who in this court says "Thank you" to witnesses. You have there the emotional Emma Goldman, something as you heard today, with all that fiery oratory that makes her so dangerous to the peace and security of the United States. Anybody who underestimates Emma Goldman's oratory, anybody who underestimates Emma Goldman's intellectual qualities is a fool. She is all that. She is the best speaker that you perhaps ever heard. And that is why her influence is so pernicious. These people were held spellbound. But the Emma Goldman you have seen in court is not the Emma Goldman who said for example in Forward Hall: "You say there is a law. I defy your law," and then further says these words: "Friends, I condemn the action of Judge Mayer

(Insert)

that is again the American court

the judges will fly off the bench." That is the Emma Goldman that speaks at crowded massmeetings on the east side. That is the Emma Goldman who takes her powerful personality and impresses it upon the minds of ignorant, weaker and emotional people of the type that you have seen called as witnesses in these proceedings. Is it

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any wonder that those dolts, those susceptible to the influence of a stronger mind, under her guidance though perhaps not under the use of specific words, as to registration, shall go out and commit crimes and defy the laws of the United States and the laws of organized society? That is the Emma Goldman of the massmeetings; not the Emma Goldman you have seen here in court.

And the Alexander Berkman you have seen here and who controlled himself so skilfully under the guiding hand of Miss Goldman--cant you hear him say that he hoped these people did prepare that bomb for Rockefeller? How he controlled himself in court! But you got a taste once of his other self; and that was when he lost control of himself, this Berkman who under Miss Goldman's clever influence has controlled himself--once he lost control of himself and protested against something that was "a damned outrage," as he termed it, but which was really a perfectly proper piece of legal procedure, the offer of something in Miss Goldman's handwriting, and His Honor admitted it. That is the Berkman who speaks at the meetings. Those are the people who are plotting from day to day against the peace and security of the United States and who impose their personalities upon the weak minds of ignorant foreigners who come to this country,

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come from persecution in Russia, and instead of being taught that they should give credit to this country for freedom of worship, freedom of education, they are taught that they ought to bring about a rebellion against this country, the same as they were taught in Russia to bring about rebellion against the tyrannous rule of the czar.

Now, gentlemen of the jury, there is another element in this case injected by the defense. It really has nothing to do with the case, but it really calls for some explanation. You have been told by numerous witnesses that the soldiers and the police and the detectives tried to break up the meeting. Now, gentlemen of the jury, that has nothing to do with the question of fact as to whether these people conspired to cause people not to register, to aid and abet those who did not register. But it does show the psychology of the minds of these defendants and I think it will interest you to bear this point in mind. But before that I want it to call your attention that these people came on the platforms and used expressions and indulged in attacks that they know are calculated to bring about a breach of the peace. They indulged in language that of itself constitutes disorderly conduct because it tends toward

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a breach of the peace. And in the New York Times the other day I came across part of an editorial which is not used as evidence but which expresses the opinion, as I conceive it, in much better language of what I conceive as my own ~~xx~~ position. This speaks of some trouble that occurred in Boston where the soldiers broke in on some sort of parade, antiwar demonstration: "The law distinctly reprimands and penalizes

men to instant physical action." Gentlemen of the jury, can you blame these young men in ~~xxx~~ uniform who have enlisted in their country's service, who are ready to lay down their lives in defense of the principles upon which this government is founded and for which it stands, who have to sit there and listen to people of this kind insult the president of the United States, defy the laws of the United States, desecrate the national emblem and heap ridicule upon the national anthem? Is it any wonder that the ~~xxxx~~ bonds of restraint must burst once in a while when people of this sort will presume beyond the endurance of a normal, free American citizen?

The psychology of these people is this: to do things that make others do just what they expect them

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to do, and then to blame it on the other fellow. For 25 years they have been blaming everything on the police; and now they are blaming it on the soldiers. Why, Caesar, s ghost! in this very bomb that these young men were preparing to kill John D. Rockefeller--I hold no brief for Rockefeller, I dont know much about him, but they want to blame John D. Rockefeller because these three fellows wanted to kill him--"It's his fault that he is about to be killed." That's the way their minds work. And there was injected into the evidence something of a personal nature that I am sorry crept in--of course it doesnt make any difference--because it puts my personality in the case, where it doesnt belong. Miss Fitzgerald told you that at the meeting at the Royal Lyceum on June 11 Miss Goldman came out of the hall and told me they were holding up registration cards of men over the conscriptable age; and I told her I had nothing to do with it, that I wasnt the marshal nor a policeman. She did say to me according to the conceded testimony "Well, you act like a policeman." Then I replied "Well, if I were I might lock you up," or something of that sort. Now, that has nothing to do with the case, but it is perfectly apparent that Miss Goldman was trying to get me into an argument--because that is their stock

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in trade, to get the other fellow's goat. And I am sorry to confess that one day they did get my goat and I had to apologize to the court, because I fell a victim to the snare they had been laying for 25 years. They want you to fall for their snare and then they blame it on you.

Gentlemen of the jury, in conclusion I want to say that this is a representative government. Before a law becomes the final law of the land every citizen through his chosen representative in Congress has the undoubted right to write to his Congressman, to see his Congressman and to take a definite stand on any piece of proposed legislation. Further than that, after a law is passed, if it appears to be a pernicious law every citizen has the undoubted right to urge the repeal of that law. But will you please tell me where in all the literature that has been offered in evidence, in all the speeches that have been offered in evidence, is there one word about proposed repeal of the conscription law? If these meetings were held merely to bring about the repeal of the conscription law, then why don't they say so? Can't you see that these people's object was wilfully to violate a law that was passed? If you don't believe in capital punishment, as you have a right not to believe in it, you

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have a right to agitate in the State of New York, if you will, for a repeal of the death penalty. If you do believe in the abolition of capital punishment, does that entitle you to go out and tell John Jones to murder somebody? That's a poor way to have a law repealed. That's precisely what these people have done. They don't like the conscription law. They don't like any law. But they are banded together, not to secure the repeal of that law, not to petition Congress in an orderly fashion, but to set themselves and their cohorts above the law of the United States. You were asked, gentlemen of the jury, if you believed in democracy. And everyone of you believes in democracy. So does everyone in this country believe in democracy. On the field of Gettysburg the immortal Lincoln said "This is a government of the people, by the people and for the people." And so it is. The shadow of the great conflict at Gettysburg has passed off, but today this country stands north and south alike united in the defense of our common liberties. It is a government of the people, by the people and for the people. But an orderly government, a government of decent men and organized society, founded upon order and not upon chaos and anarchy. And I say to you gentlemen of the jury that the court democracy

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for which Washington and Jefferson and Madison and Jackson and Lincoln fought and bled, that great democracy, that great orderly republican government must not succumb to and shall not be destroyed by the attacks of people like these two defendants who seek to ~~annihilate~~ ~~abolish~~ abolish that very democracy that our forefathers have laid down their lives in defense of. That is the point. Of course we believe in democracy; but we don't propose to have that glorious democracy destroyed by anarchy and bloodshed and violence.

Now, gentlemen of the jury, this case is an important case. That's doubtless why you have been so patient. It's an important case from the point of view of the defense. Nobody wants to underestimate the importance. But, gentlemen of the jury, this case is very important for the United States of America. As I said before, the government of the United States is not the district attorney's office. The government is your government, in which you participate through your duly constituted representatives. And this case is of prime importance to that government. Will you by your verdict say that people like these can go forth again, defy our laws, desecrate the Stars and Stripes, make fun of the national anthem and do that with impunity? Urge people wilfully

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to set themselves above the provisions of a definite law? Aid and abet people who will not register for conscription? Are you by your verdict going to say that to them?

Or rather, gentlemen of the jury, are you going to say this: It has been shown that you two people got together in a common unlawful plan; that the object of your plan was to bring it about that young men of conscriptable age should wilfully refuse to register as provided by law, and that you aided and abetted them in their unlawful activities, and that in pursuance of that ~~activity~~ conspiracy you did many outward acts looking toward the accomplishment of your wicked designs? Are you not rather going to say by your verdict, in these times when men are willing to give their treasure in behalf of those principles for which we all stand, and are willing to lay down their lives in behalf of the nation we love:

Strike till the last armed foe expires!
Strike for your altars and your fires!
Strike for the green graves of your sires,
God and your native land!

(Recess of five minutes)

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Notes: Pages 62-95 of private stenographer's transcript. For other copies of Mayer's instructions, see the official trial transcript, 810206005, pages 428-451, and the court stenographer's minutes, 850812038, pages 787-822.

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COURT'S CHARGE and SENTENCE

July 9, 1917

PAUL MUNTER
SHORTHAND REPORTER
68 WILLIAM STREET

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THE COURT'S CHARGE

GENTLEMEN OF THE JURY: It is with real sincerity that I express to you my appreciation of the patience that you have displayed throughout this trial and of the very close and intelligent attention that you have given to the testimony as it was adduced and to the summing-up of the defendants and of the counsel for the prosecution. It is extremely important to concentrate your minds upon the particular question here involved arising out of the indictment of these two defendants. They are charged by the grand jury with an offense which I shall more technically define later, which in effect is this: that they have knowingly and wilfully counseled, abetted and aided persons of the so-called "draft age" to ~~fix~~ violate a statute of the United States, against the peace and dignity of the United States. Many things, as happens in almost every case, have crept into the case which have a collateral rather than a direct aspect. It was suggested by one of the defendants in his summing-up that there had been brought into the case references to anarchism and the Ferrer school and violence, by virtue of the action of the prosecuting attorney. The fact is, as you well know, that those who first mentioned anarchy and anarchism were the defendants themselves; that the reference to the doctrines

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of Ferrer was elicited by questions put by them, and that these matters came into the case in great measure because of a question of credibility, to which I shall later with some particularity refer.

This is not a trial of political ~~pr~~ principles. This cannot be turned into a political or State trial in the political sense. You are not to be misled by any effort to digress your minds from the real issue, which simply is whether these defendants are guilty or not guilty of the crime charged in the indictment. This is not a question of free speech. Free speech is guaranteed to us under the constitution. No American worthy of the name believes in else than free speech. But free speech means, not license, not counseling disobedience of law. Free speech means that frank, fair, full and orderly expression which every man or woman in the land, citizen or alien, may engage in in lawful and orderly fashion. And that free speech is guaranteed to us and no court would deny it to anyone.

prior to the enactment of the so-called selective ~~draft~~ service law, aptly designated such by the president, on the 18th day of May, 1917, any person could discuss in the fullest manner possible the provisions of the pending legislation. And any person h

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discussing that legislation could use even the most vehement language and present any and all arguments that seemed to him or to her best. But when that discussion became embodied into law, then it became the duty of every person living under this government to obey that law. Individual opinion might still be fully expressed. Proper agitation for repeal might still continue. But the law itself thenceforth must be obeyed. This is a republic founded upon principles of democracy. It can remain a republic only so long as the law is obeyed. The obedience to law is the fundamental basis of American life. Once that basis disappears or is destroyed, the whole fabric is destroyed and the foundation upon which a government of free men rests, disappears.

What was the method which the framers of the constitution devised with an extraordinary and prophetic foresight? They had just won their freedom after long years of struggle and they realized that the republic which they were founding must rest upon law, that that law must be the expression of the will of the people through duly organized methods and through orderly channels. They devised an extraordinary system which has stood the test now of well beyond a century. It was a

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system that was to record not merely the passing whim of the majority but it was a system which was to give a fair opportunity even to the minority. And therefore with the greatest measure of care they devised what the political philosophers have called a system of checks and balances, by which they made the three great departments of government independent of one another. A law cannot become a law by the mere passage of an act of Congress. Before it becomes a law it must have the approval of the second branch of the government, the executive. ~~Senator~~ And even then, if the constitution has been violated or has not been accorded with, any person in the land has the opportunity in lawful fashion to attack that law and the courts have the power to declare it unconstitutional. And the courts have so declared on many occasions fearlessly and courageously laws enacted in the passing fashion of the day to be unconstitutional. So that you see we have a very elaborate and very careful system by which before any thought becomes concrete in a law that thought is subjected to discussion in and outside the halls of Congress. It must then have the approval of the executive and must then stand the test of an appropriate court inquiry. With such an elaborate system in the minds and known

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to Congress, Congress enacted this §37 of the United States federal code, framed in very simple language that any man may understand. "If two or more persons conspire either to commit any offense against the United States or to defraud the United States in any manner or for any purpose, and one or more of such parties do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be fined not more than \$10,000 or imprisoned not more than two years or both." On the 18th day of May, 1917 this so-called selective service act became law. That act provided for a general and comprehensive scheme for calling upon men between 21 and 30 years of age to serve wherever the government might assign them, whether in the army or the navy or industrial or agricultural pursuits. It was passed as you know after an elaborate discussion. And when passed, under our system of representative government it represented the will of the people under our system and became the law.

Now, as a necessary part of that whole scheme of law and as a section of that statute--not a separate section, but a part of that whole scheme--Congress of course saw the need of having a register of those who became or would be within those ages that I have re-

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ferred to. It was necessary to find out the name and address of every person through the country between the ages of 21 and 30,, ^{so} ~~that~~ that later by further proclamation of the president and further carrying out of the statute the government could determine whom to call upon and in what capacity. And, as you know, elaborate provisions are to be found in that statute in respect of exemptions and of other subjects. All to the end, from the point of view of Congress, of enacting a statute that would be as equal and as fair as human statutes can be to the carrying out of this important measure which received paramount attention from Congress and the president.

Now, what does that §5 say? That all male persons between the ages of 21 and 30, both inclusive, shall be subject to registration in accordance with regulations to be prescribed by the president, and upon proclamation by the president or other public notice given by him or by his direction stating the time and place of such registration it shall be the duty of all persons in the designated ages, except officers and enlisted men of the regular army, the navy and the national guard, and the naval militia while in the service of the United States, to present themselves for and submit to registration under the provisions of this act. And every

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such person shall be deemed to have notice of the requirements of this act upon the publication of such proclamation or other notice as aforesaid, given by the president or by his direction. And any person who shall fail or refuse to present himself for registration or submit thereto as herein provided shall be guilty of a misdemeanor and on conviction shall be punished as the statute provides.

There is another provision of the statutes, known as §332 of the United States criminal code, which also is simply worded and easy to understand: "Whoever directly commits any act constituting an offense defined in any law of the United States or aids, abets, counsels, commands, induces or procures its commission is a principal."

Now, having in mind these three statutes, let us look at the indictment, eliminating from it as much of purely legal language as possible. "The grand jurors of the United States of America within the district aforesaid on their oath present that on the 18th day of May, 1917 the president of the United States duly issued his proclamation as provided by the act of Congress approved May 18, 1917 to the effect that the time and place of such registration shall be between 7 a. m.

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and 9 p. m. on the 5th day of June, 1917 at the registration places in the precinct wherein those subject to registration may have their permanent homes. That those who shall have attained their 21st birthday and who shall not have attained their 31st birthday on or before the day therein named, are required to register." That thereafter on the 18th day of May or by virtue of that act it became the duty of every person, citizen or alien, every male person in the United States to register as the president's proclamation indicated on the 5th day of June, every person who was between these ages of 21 and 30. And then the indictment continues: "And the grand jurors aforesaid on their oath aforesaid do further present that Emma Goldman and Alexander Berkman on the 18th day of May, 1917 and on each and every day thereafter up to and including the date of the filing of this indictment, at the southern district of New York and within the jurisdiction of this court, unlawfully, wilfully, knowingly and feloniously did conspire together and agree between themselves

(Insert)

act of Congress approved May 18, 1917. And the grand jurors * * * wilfully . * * * not

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to register." And then the indictment proceeds to set forth certain overt acts of the defendants.

The crime of conspiracy requires two elements. agreement, One is the ~~crime~~, the other is the outward act which in the law is spoken of as the overt act. The word "conspiracy" means a confederation to effect an unlawful object, even by lawful means, or a lawful object if by unlawful means. The essence of conspiracy is agreement or confederation. To constitute a conspiracy it is not necessary that the two or more persons should act together and enter into an explicit or formal agreement. It is not necessary that they should by direct words or in writing state what the unlawful plan or the unlawful means are to be. Nor need they set forth at length the details thereof, nor the methods by which the unlawful combination is to be made a fact. It is sufficient if two or more persons in any manner or through any contrivance should even tacitly come to a mutual understanding to accomplish a common and unlawful ~~result~~. desire. Where an unlawful end is sought to be effected and two or more persons actuated by the common purpose of accomplishing that end work together in any way in furtherance of the unlawful scheme, every one of such persons becomes a member of the conspiracy. A conspir-

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acy is formed and the foundation of crime is laid when tacitly or expressly the agreement is entered into to accomplish the result which the law forbids. The statute however requires not only that the ^{actual} ~~unlawful~~ agreement shall have been made, but that at least one of the parties to such unlawful agreement shall do some act to effect the object of the conspiracy, and therefore to warrant a conviction for conspiracy it must be found, first that there was the agreement which is a conspiracy, and second that at least one of the conspirators performed some act to effectuate the object they had in view. If that last essential is fulfilled, then all the persons who made the agreement or who entered into it knowingly, however it was made, are guilty of conspiracy, no matter whether they all performed acts to effectuate its object or whether they each performed all of the acts to effectuate its object. Now, put into simpler language, that means simple this: two persons may enter into an unlawful agreement and yet neither of them may ever do anything beyond that. And that is the reason the law requires that there shall be some outward act. But there need be only one act to constitute the overt act. Many acts may be proved, many acts may not be proved. But if you once can prove that

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(the agreement existed, then one act, whether lawful or unlawful in itself, so that it is in furtherance of that agreement is sufficient to sustain an indictment for conspiracy--assuming always that these acts and the agreement are proved beyond a reasonable doubt.

you have had such a full review of the testimony and you have listened to it so closely that I shall not at this late hour review at any length what you have heard. I shall briefly refer only to certain salient features. What I do not refer to does not mean that I consider them not of importance but it simply means that I have a desire at this hour merely to give you a very brief outline, insofar as it will aid you in understanding the law. I may here say in passing that, as you well know, the jury is the judge of the facts and in that domain is supreme; while from the judge you must take the law and be guided by his instructions as to the law. I may further say that if anything has been said by either the counsel for the government or the defendants or myself which does not accord with your recollection of the testimony you will take your recollection and not theirs or mine.

(On the 9th day of May, 1917, if my recollection is right, there was a first meeting of this No C^onscrip-

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tion League. That was followed by the meeting of May 18, 1917 at the Harlem River Park and Casino. The government had a legal right to introduce evidence of that meeting, whether the acts there performed constituted in law an overt act or not. The government had the right to lay before you by the testimony of witnesses what took place at that meeting, in order to disclose the intent of the defendants. What is in a man's kind is discovered only by what he says and what he does. And therefore it was entirely proper as a matter of law that everything that took place at that meeting should be presented to you. Since the point was raised this morning as to whether or not the president had affixed his signature to the act in question at the time that the defendant Emma Goldman was speaking, I have endeavored to ascertain whether as a matter of fact that law or that act was signed by the president, because it has been my purpose to have the trial conducted in strict accordance with law and as fairly as I knew how. I have been informed by one ^{of} the representatives of a newspaper that word was received by the New York newspapers, ~~and~~ or at any rate by him, that the act became law at 12 minutes after 10 of that night. I have also caused to be inquired by long distance phone

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from the State Department when the act was signed; and the information from there is not sufficiently clear to enable me to say that it was signed prior to the time defendant Emma Goldman was speaking. And therefore I deem it but just to say that that doubt must be resolved in favor of the defendants on the question of whether or not that was an overt act; and I will charge you therefore that that was not an overt act within the meaning of the statute, because of the doubtful proof as to the exact time when the act was signed. You ~~have~~ may however ~~xxxx~~ consider, as I said before, everything that took place at that meeting as indicating to you the purpose and intent of the defendants, especially in connection with the subsequent acts, either by way of meetings, speeches or writings, which are here in evidence.

Most time was spent in regard to an expression used in that speech according to the testimony of the two stenographers, or two patrolmen assigned to stenographic work. It has been suggested that what has been testified to about violence was not germane to the case, and it becomes my duty therefore to repeat perhaps a little more fully what I said to you in the course of the trial. Officer Randolph went there, as you know, pursuant to the orders of his superior officer for the purpose of

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making an exact stenographic report of what took place at that meeting so far as the defendant Emma Goldman's speech is concerned. The stenographer Cadell--Randolph had been there, each without knowing that the other was present--was sent there on a similar duty. In determining the credibility of witnesses you will apply of course the same good common sense that you do in the ordinary affairs of your lives. You may see the manner in which a man testifies, or a woman. You may see how a witness acted upon the stand. You may ask yourselves with respect to these two men, sworn officers of the law, whether or not they would deliberately perjure themselves on the stand or whether they would insert into their stenographic minutes and their transcript of those minutes foreign matter utterly different from what was said. The report of Randolph was attacked by the defendants and thereupon the defendants produced certain witnesses to prove that ~~xx~~ from previous acts of the defendant Emma Goldman her expressions as to violence had been contrary to that which was recorded by Randolph. In addition to that, there were read in evidence by the defendants extracts from various articles.

The defendants having introduced this evidence on the credibility of Randolph, this evidence of a collateral

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character, in addition to the direct evidence of those witnesses who said they had not heard that expression, it became as a matter of law perfectly sound and proper to then permit the introduction of evidence showing any expressions of opinion upon this subject by either of the defendants, or any facts or circumstances whereby you could or could not infer, as you deem best, that one or both of these defendants proved or disproved certain expressions. It was under these circumstances that the Mother Earth publication of July, 1914 came into the case, that paper being published, as appears from the paper itself, by the defendant Emma Goldman at the time when the defendant Alexander Berkman was the editor. And a bundle of these papers some three years later was found in the office of the defendant Emma Goldman, and it is for you to say on all the evidence in the case what, as a result of it all, the credibility of the witnesses who were ~~adduced~~ adduced is in regard to this particular point. The defendants, as the district attorney has said and as they have said, are not on trial for violence and the matter, ~~as~~ as I think I said (if I didnt say it I say it now), assumed an amount of importance and time that from my point of view it was not ~~xxx~~ entitled to, although you take your point of

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view and not mine, when I express an opinion of that character. The real question is whether Randolph and Cadell correctly transcribed the speech of the defendant Emma Goldman and told the truth in regard to all the speech and especially in regard to those parts of it having to do with registration.

We pass from that ~~x~~ to the meeting of May 23 held at Miss Goldman's flat at which the defendant Berkman presided. You will take the letter, Exhibit L, to the juryroom and in connection with all the facts and circumstances you will determine the meaning of that letter.

The next meeting is the meeting on the eve of registration, the 4th day of June, announced by handbills to take place at that date. That meeting was held at the Hunts Point Palace. I am not referring to the details of these meetings, because they have been fully covered and you are familiar with them and there is no use taking up your time. And then in addition to that you will recall, and may read if you so desire, what was published in Mother Earth and what was published in The Blast and what was said at Forward Hall by one or the other of the defendants, as the case maybe: the expression "We will deny your laws," or whatever the exact wording was, used at Forward Hall may be taken as

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some light upon the intent of the parties.

Now, words are elusive. It is sometimes very difficult to understand a phrase standing by itself. And therefore it is that when you read an article of any character you usually read the context, and if any person has done any acts in connection with that article you analyze those acts in order to understand what words he used. Words are not always direct. Serious things may be accomplished by the use of words subtly and insidiously. A man may not in so many words advise, aid or abet another to commit an act and yet he may so frame his language that the inference to be derived from it is clear. In reading the language in regard to where the word "conscription" is used you have a right to consider the occasion when used, the circumstances when used and you have a further right in that connection to remember that registration, under the act, is the first necessary step prior to so-called draft or conscription. Now you can take all of this matter, and ~~xxx~~ weigh and determine what the various words mean, with a view of ultimately determining whether there was the conspiracy charged, to counsel, aid, abet, &c. the persons who violated a statute. And if you find, outside of the meeting of May 18, either in the draft letter or in other speeches

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or in the publications Mother Earth and The Blast, or any of the writings or sayings of the defendants subsequent to May 18, that there was advice or counsel or aiding or abetting of other persons to violate ^{the} ~~a~~ statute in question, and you find that beyond a reasonable doubt, then you will find the defendants guilty, because every one of these writings and every one of these speeches made after the 18th of May was an overt act and you will remember that I said that if you once find the ~~xxxxxxxxxxxx~~ agreement to have been made it is sufficient under the statute that there shall be one overt act.

Every defendant is presumed innocent until a jury finds him or her guilty beyond a reasonable doubt. If the evidence justifies in your judgment that the accused are guilty so as to exclude any other reasonable conclusion, you should declare them to be guilty. If you cannot reconcile the evidence before you with any reasonable hypothesis consistent with innocence, then you will find the defendants not guilty. This old established rule does not permit you ~~but~~ however on mere surmise or guess or conjecture to find that the accused or either of them are possibly innocent. You cannot base your judgment upon a merciful hope for a reasonable doubt, as

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(the words imply only such a doubt as would be ~~impossible~~
~~entertained~~ entertained by a reasonable man after an impartial
and thorough review of all the evidence and all the
facts in the case brought to his attention. Of course
a conspiracy requires two persons. So, your verdict must
be either that the defendants both of them are guilty
or that the defendants both of them are not guilty.

I may only say one thing more, concerning which there
can be little difference of opinion. Whatever may have
been the fate of persons of historical note, whether
the acts that they committed were within or without
the law, is quite immaterial in this case. This is a
country of law and order. The law must be obeyed. We
are not dealing with a discussion of abstract principles.
We are not concerned with the views of the defendants,
whether they are right or wrong, on matters foreign to
this case. We are only concerned with the evidence in the
(case. If you believe them guilty beyond a reasonable
doubt it is a matter of no concern to you nor to the
court what their views may be. If you believe them not
guilty, then equally are we not concerned with their
political views.

I repeat in conclusion and lay it upon you most
earnestly that this is not a trial of free speech.

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This is an indictment for crime. And the duty which rests upon you is to determine on the evidence whether or not the defendants are guilty or innocent of the crime charged in the indictment. Much has been said by the defendants and by the counsel for the government as to what the country may think of your verdict. Gentlemen, we are within the solemn confines of a court. All the country wants from you is a just verdict on the evidence, a verdict that I know you will render, because you have given such close attention. And confining yourselves to that, it is your duty by deliberate consideration to arrive at a conclusion on the evidence and not to permit yourselves, as I am sure you will not, to be diverted into any attack--to make it seem as if any person were here on trial for the expression of opinion. The sole question is, has the government proved the ~~guilt~~ guilt of the defendants beyond a reasonable doubt? If so, your verdict is guilty. If not, your verdict is not guilty.

Any requests to charge? Any exceptions?

MR CONTENT: No requests.

MR BERKMAN: I do not know what the procedure is about taking exceptions.

THE COURT: You may take exceptions, but you must

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take them now.

MR BERKMAN: In particular, or in all?

THE COURT: You must take particular ~~xxxxxxxx~~ exceptions and call the court's attention to any error made.

MR BERKMAN: No particular exception; but if permissible just a legal matter, probably. A general exception.

THE COURT: Give me an idea of what you want on the record and I will state it.

MR BERKMAN: Just as a matter of record. I have no particular one.

THE COURT: As a matter of record you want a general exception?

MR BERKMAN: If that is the proper thing.

MISS GOLDMAN: Just one minute. As a point of instruction, I want to know. I would like to ask Your Honor to instruct the jury that since the articles brought in evidence of July, 1914 represent reports of meetings, which it is a legitimate method on the part of publications to reprint or report things that there happened in the way of news, that that should be ruled out as evidence.

THE COURT: I get your point. I am glad you called

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my attention to it. The defendants are not responsible for the utterances of persons other than themselves at the July, 1914 meeting as such. One article that was called to knowledge and notice was not written by the defendant Berkman, was not a speech made at that meeting. You may take into consideration that papers public speeches. You may also take into consideration whether from the relations of the defendants with each other and the finding of the bundle of papers in the Mother Earth office at the time of the government arrest, whether the defendants ~~or~~ approved the sentiments in those articles ~~xxxxx~~ all on a question of credibility.

MR BERKMAN: I have two requests for charges. First, that the court charge the jury that even if they believe one or both the defendants committed an overt act or had told people not to register, but not as the result of an agreement or conspiracy, then the jury must acquit.

THE COURT: Certainly. That is quite right. If there is no agreement there cannot be a conviction.

MR BERKMAN: And the second one: we ask the court to charge that all jurymen must be convinced beyond a reasonable doubt, before they can find the defendants guilty.

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THE COURT: So charged.

MR BERKMAN: And that if even one is not convinced of their ~~guilty~~ guilt beyond a reasonable doubt, he must vote for acquittal.

THE COURT: Quite so. The entire jury of course must bring in their verdict, in which the jury must be satisfied beyond a reasonable doubt.

MR CONTENT: Your Honor charged that one overt act is enough. Would Your Honor add that one overt act by one conspirator?

THE COURT: Yes, one overt act by one conspirator is enough. If you find agreement, then the acts and words of one conspirator are admissible as against the other and bind the other.

The jury retired at 5:20 and at 6 o'clock returned a verdict of guilty.

MISS GOLDMAN: We move to set aside the verdict as being against the weight of evidence. I think that is the way you move to set a verdict aside.

THE COURT: The stenographer may note that the motion is made, with formalities to cover all grounds upon which a motion to set aside a verdict may be made.

MISS GOLDMAN: I wish to ask that sentence be

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deferred for a few days and that bail be continued, that the present bail be continued meantime, because we want to arrange our affairs, which we have not had time to do during the trial.

THE COURT: The motion to set the verdict aside is denied.

MR CONTENT: The government moves for sentence. And the government feels in a case of public importance like this case that the judgment and mandate of the court should be speedily handed down.

MISS GOLDMAN: Well, the motion of setting the verdict aside is denied. We have an exception, of course.

THE COURT: The motion in regard to the bail is denied. Application for that may be made under the practice of this court to the circuit court of appeals. The court will now pronounce sentence.

MR BERKMAN: The motion to defer sentence is denied?

THE COURT: Yes.

MR BERKMAN: Exception.

THE COURT: The clerk will take the pedigree.

THE CLERK: Alexander Berkman to the bar! Where were you born, sir?

MR BERKMAN: Russia.

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THE CLERK: When?

MR BERKMAN: Well, about 48 years ago. In 1869.

THE CLERK: Do you know the town in Russia where you were born?

MR BERKMAN: St Petersburg.

THE CLERK: Are you married or single?

MR BERKMAN: Single.

THE CLERK: Are your parents living?

MR BERKMAN: No.

THE CLERK: Are you a citizen of the United States?

MR BERKMAN: NO.

THE CLERK: Miss Goldman to the bar! Where were you born?

MISS GOLDMAN: Russia.

THE CLERK: When?

MISS GOLDMAN: 1869.

THE CLERK: Where in Russia?

MISS GOLDMAN: The town of Kovno.

THE CLERK: Are you married or single?

MISS GOLDMAN: Single.

THE CLERK: Parents living?

MISS GOLDMAN: Mother living.

THE CLERK: Where, may I ask?

MISS GOLDMAN: Rochester, New York.

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THE CLERK: Are you a citizen of the United States?

MISS GOLDMAN: Not by my own application. With my father.

THE CLERK: Alexander Berkman to the bar! Is there any reason why the sentence of the court should not now be pronounced upon you?

MR BERKMAN: Well, I think that it is only fair to suspend sentence to give us a chance first of all to arrange matters. And the fundamental reason that sentence should not be here pronounced is that we are innocent of the charge and we are convicted as anarchists, out of prejudice and bitterness. That's all.

THE CLERK: Miss Goldman, have you anything to say why sentence should not be imposed?

MISS GOLDMAN: I wish to say that the very fact that we were refused to have sentence deferred for several days to arrange our affairs proves that the court is prejudiced because we are anarchists; because we were frank and because we stood by our opinions, and because we are going to stand by our opinions.

MR CONTENT: I have very little to say, Your Honor. Both the court and the jury were fully enlightened as to what the defendants did under the particular Acts upon which they were charged. However, I should feel

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derelict in my duty to the court if I did not inform the court that in 1892 the defendant Alexander Berkman was convicted of attempted murder in Pittsburg--

MR BERKMAN: I object.

MR CONTENT: I have a right to say this.

THE COURT: He had no right to bring this to the court's attention during the trial. He has a right to bring any matter to the court's attention before sentence is pronounced.

MR CONTENT: I beg to bring to the court's attention that the defendant Alexander Berkman on July 23, 1892 was convicted in Pittsburg, Pa. upon an indictment charging him with attempted murder. That he was sentenced upon that conviction to serve 31 years in the western penitentiary of Pennsylvania. And from my understanding of the record he served fourteen years out of this 31 years, having been released under the Pennsylvania law on parole at the expiration of two-thirds of his sentence. I shall not refer to his other arrests, because that is the only other absolute conviction that I have a record of; but I feel the court should take it into consideration, the fact that this man who now says he don't believe in violence went ^{to} the office of a man and there shot him down in cold blood or attempted to do so, without giving him a chance for his life. And such

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is the man who believes in universal peace. That's the sort of a man who goes into another man's office and tries to kill as he would a rat in a hole.

As to the defendant Emma Goldman: she has been a great disturber of the peace for many years. In 1893 she was indicted in this city before the late Judge Randolph Martine of the crime of unlawful assembly and inciting to riot and convicted on said indictment; and at that time she was sentenced to serve one year in the New York county penitentiary at Blackwell's Island. And I call your attention to the fact that in that case the witnesses for the people testified that Miss Goldman told the audience in the German language in Union Square that if they didnt get what they wanted peaceably they should go into the houses of the rich and take it by force; that if they could not get what they wanted in any other way, to go ahead and take what they wanted by force. At that time, as in this case, she claimed that she did not believe in violence. But she was convicted and was sentenced to serve one year on Blackwell's Island.

I will not refer to the other cases, but she has been convicted of minor offenses and has been a disturber and an inciter to riot for many years.

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THE COURT: Gentlemen of the jury, I wish you would remain, for I desire to say before I may forget it that I think ~~xxxxxx~~ the appreciation of the court and the community is due to you for the fearless and prompt manner in which you have discharged your duty. I do not wish to express a word that might be construed as in any manner flattering you; but I have never sat in any case where more earnest men have been jurymen or who have ~~xxxxxx~~ paid closer and better attention to the case than you have. And I want my association in this case to be a remembrance of my appreciation.

The defendants may remain seated.

It has undoubtedly been a source of regret to the gentlemen of the jury, as it has been to the court and possibly to those who have sat in the courtroom for these many days, that the extraordinary ability displayed by the defendants has not been utilized in support of law and order. The magnetic power of one of the defendants if thus utilized might have been of great service, in forms legitimately advocated, for the betterment of conditions as the world goes on. That power might have been of tremendous service, and more especially among the millions of humbler people who come to our country in an aspiration for liberty. I understand I think what

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has been spoken of as the psychology of the defendants and I am quite sure that they understand what might be called the psychology of the court. We do represent the existing order of things insofar as that means that progress must be accomplished in this country by lawful means. We regard as enemies of the government in the most serious sense of that term those who advocate the abolition of this government, those who counsel disobedience to our laws and those who induce the less strongminded to disobey our laws. These may be very old and to some very tiresome sentiments. But they are the sentiments that from our point of view have become a part of our lives, won at great expense by the revolutionary fathers, by the men who fought in the great civil conflict and by the men who now are willing to stand by their country when their country needs them.

We have no place in this country for those who express the view that the law may be disobeyed in accordance with the thoughts of an individual. I am expressing not my view alone, I am expressing the view of what we in America understand to be the views of a true democracy and a true republic. The government has thus far ~~xxxxxx~~ enacted no special statute to deal with those who counsel disobedience and who advise insurrec-

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(tion; who seek to reach and control the humbler people, some of whom dont understand things, by methods such as were disclosed in this case. And I desire, so far as I am concerned, that my words shall be perfectly understood, not merely by those who are here but by anyone else who has in his mind that he is stronger than the law. It makes very little difference what becomes of a single administrator of the law, whether he be officer, marshal, district attorney or judge. They come and go. But in this country the law is an imperishable thing that lives forever. And it merely uses for the moment as its administrators some human beings who may at any time give way to others. And so when I impose this sentence I am imposing it on the one hand with regret that these abilities were not better used. I impose it on the other hand with profound conviction that I am speaking for organized law, for the kind of liberty that we know and we understand who have been privileged to live in this country that we believe is a true democracy.

(The maximum sentence under the statute is two years and \$10,000 fine. I sentence the defendant Alexander Berkman to the United States penitentiary in Atlanta for two years and fine him the sum of \$10,000.

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I sentence the defendant Emma Goldman to the State penitentiary at Jefferson City, Mo. for two years and fine her the sum of \$10,000.

I further direct the district attorney under the provisions of the immigration act to forward to the commissioner of labor the record of this conviction in order to determine in due course whether or not either or both of the defendants are subject to the provisions as to deportation provided in that act. That is a matter which is under the statute an administrative matter for the commissioner of labor. And the district attorney is directed to forward the record of this conviction to the commissioner of labor.

I may say in concluding that the responsibility for the custody of the defendants is with the marshal for the southern district of New York. He may exercise such discretion in that regard as he deems best.

The court is now adjourned without day.

MISS GOLDMAN: Just one moment, please. We wish to ask--as we intend to appeal the case we wish to ask now, for a last instruction of law, whether we make the appeal now ~~or~~ or whether we have counsel proceed with the preparation of the appeal.

THE COURT: Under our rule you have ninety days

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within which to sue out a writ of error. And in order that there may be no mistake or confusion on the subject the stenographer will note that the defendants may have ninety days within which to sue out a writ of error.

MISS GOLDMAN: We should however like to know more specifically whether we may after we are taken away from here consult regarding the appeal or whether we are to be spirited away in a speedy manner. We would like to know that, to be quite clear where we stand.

THE COURT: The fullest opportunity within the ninety days will be given to the defendants to consult counsel and prepare their assignments of error and their writ of error. If in the course of that period there is no such opportunity the defendants can address a communication to the court and the court will see that such an opportunity is afforded them. As a matter of fact such opportunity is your right at any time within ninety days.

MISS GOLDMAN: Well, may I just ask, please, what the procedure is, as we don't know what it is, regarding whether we can now--I mean within the next hour or two--consult with counsel regarding an appeal? ~~That~~ We ought to know that.

THE COURT: The custody of the defendants is with

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the marshal and the marshal will attend to the matter referred to. Court is now adjourned.

MISS GOLDMAN: I wish to thank the court for the marvelous fair trial we have received. I hope history will record the fairness. And history will also record, Your Honor, that two people asked for an adjournment or rather a deferring of a sentence of two days to arrange their affairs, and yet the court considered them so dangerous to the United States that it would not even give them two days--which are given to the most heinous criminal. Thank you very much.

ADJOURNED

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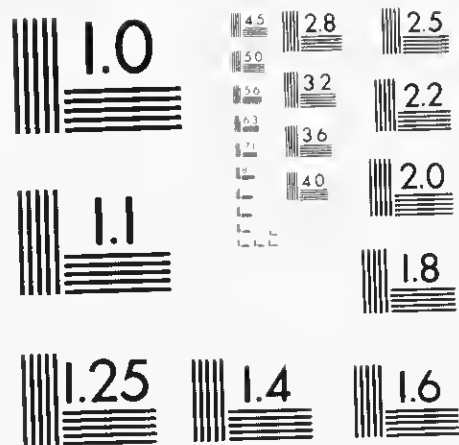
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